

EXHIBIT X

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA ex rel.

COMFORT FRIDDLE and STEPHANIE KENNEDY,
Relators,

Relators,

CIVIL ACTION FILE

vs.

NO. 1:06-CV-3023-JEC

TAYLOR, BEAN & WHITAKER MORTGAGE CORPORATION;

HOME AMERICA MORTGAGE, INC.; GREGORY HICKS;

DENNIS MOSELEY; CARL WRIGHT; and JOHN DOE,

Defendants.

DEPOSITION OF

JAMES GREGORY HICKS

February 6, 2013

10:25 a.m.

75 Fourteenth Street
25th Floor
Atlanta, Georgia

Lisa Fischer, CCR-B-1277, RPR, CRR

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15 attached to the original transcript.)
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1 James Gregory Hicks

2 February 6, 2013

MS. BRACKER: Today is February 6, 2013, and this is the deposition by oral examination of Gregory Hicks, pursuant to Federal Rules of Civil Procedure 34 and 45, for all purposes appropriate under the Federal Rules.

JAMES GREGORY HICKS,

having been first duly sworn, was examined and testified as follows:

CROSS-EXAMINATION

BY MS. BRACKER:

Q. I am Julie Bracker, as you just heard. I represent Stephanie Kennedy and Comfort Friddle, who are relators in an action that they brought on behalf of themselves in the United States.

Have you ever been deposed before?

A. Yes.

Q. Tell me when you've been deposed before.

A. I was deposed several times during different cases at Home America.

Q. How many times?

1 A. I've been deposed several times
2 in -- I don't remember exactly how many. Two
3 or three times.

4 **Q. What's the first time you were**
5 **deposed?**

6 A. Over the ownership of the Home
7 America name after I bought it.

8 **Q. And do you remember who represented**
9 **you at that time?**

10 A. No. Florida.

11 **Q. It was in Florida?**

12 A. Yes.

13 **Q. In Florida. Okay. And you don't**
14 **recall who your attorney was.**

15 **Do you recall about what time that**
16 **was? What year?**

17 A. No. 2002.

18 **Q. What was the next time you were**
19 **deposed, that you can recall?**

20 A. A lawsuit for some turndowns or
21 something, Home America Mortgage. I don't
22 remember what the exact case was.

23 **Q. Do you recall who represented you?**

24 A. Salmeh Fodor.

25 **Q. And do you recall approximately what**

1 **year that was?**

2 A. It was about ten years ago.

3 **Q. Was that in Georgia?**

4 A. It was.

5 **Q. Federal court, or do you know?**

6 A. I don't even know.

7 **Q. How about that first one about the**
8 **ownership of Home America? Was that in**
9 **Georgia? You said that --**

10 A. Florida.

11 **Q. -- was in Florida, right? Do you**
12 **know if that was state or federal?**

13 A. It's got to be state.

14 **Q. What's the next time you remember**
15 **being deposed?**

16 A. A tenant sued in one of the shopping
17 centers that I had.

18 **Q. What shopping center was that?**

19 A. The one that houses the BodyPlex
20 that I have now on Highway 20 and Moon Road.

21 **Q. I heard Highway 20 but not the next**
22 **thing you said.**

23 A. Highway 20 and Moon Road.

24 **Q. Highway 20 in Georgia?**

25 A. Yes.

1 **Q. Who represented you in that**
2 **deposition?**

3 A. Salmeh.

4 **Q. And the deposition was in Georgia?**

5 A. Yes.

6 **Q. And about when was that?**

7 A. I don't know. Six years ago or so.

8 **Q. When was the next time you were**
9 **deposed?**

10 A. My divorce.

11 **Q. And what year was that?**

12 A. '08, '09, something like that.

13 **Q. Who represented you in that?**

14 A. Judy King.

15 **Q. Was that in Georgia also?**

16 A. Yes.

17 **Q. Do you know what county that was?**

18 A. Gwinnett.

19 **Q. Have you been deposed any other**
20 **times that you can recall?**

21 A. No. Or have I? No.

22 **Q. Have you ever attended a deposition**
23 **where you were not the deponent before today?**

24 A. No.

25 **Q. You have an understanding of what a**

1 deposition is, then, obviously, right?

2 A. Obviously.

3 Q. And you understand that you're under
4 oath. She just sworn you in. And I'm
5 guessing you know the routine pretty well,
6 that we're going to go slow. We're going to
7 not talk over each other. Ms. Lisa is trying
8 to take everything down that we say, which
9 makes it really important that you speak up
10 enough for her to hear you and that you use,
11 what I tell my four-year-old, use your words,
12 not uh-huh and huh-uh, because that's hard to
13 transcribe.

14 A. That's okay. I'm not your
15 four-year-old, though.

16 Q. That is very obvious to me, but
17 thank you for pointing it out.

18 If at any time you don't understand
19 a question I put to you, then you need to let
20 me know, so I can rephrase it until we're sure
21 you understand. Is that acceptable?

22 A. I understand.

23 Q. Is there any reason today why you
24 might not be able to give your best testimony?

25 A. No.

1 **Q. So you were running pretty late**
2 **today. That won't impact your testimony?**

3 **A. No.**

4 **MS. BRACKER: Will the witness read**
5 **and sign?**

6 **MR. PARKER: Yes.**

7 **Q. (By Ms. Bracker) Do you have any**
8 **questions about my instructions?**

9 **A. No.**

10 **Q. And are you familiar with the matter**
11 **we're here for today?**

12 **A. Do I fully understand? Is that what**
13 **you're asking me?**

14 **Q. No. I asked if you're familiar with**
15 **it. But you can explain to what degree you're**
16 **familiar with it, if you'd like.**

17 **A. "Familiar" is a pretty vague word.**
18 **Yeah.**

19 **Q. Tell me what your understanding of**
20 **it is.**

21 **A. Your clients are suing me for making**
22 **false claims against the government on behalf**
23 **of mortgage loans that were originated and**
24 **funded with TBW.**

25 **Q. Have you read the Complaint in this**

1 **action?**

2 A. I have.

3 Q. **Did you read our Motion for Summary**
4 **Judgment that was filed in this action about a**
5 **year ago?**

6 A. I did.

7 Q. **Are you familiar with the loans that**
8 **were addressed in that document?**

9 A. No.

10 Q. **Did you review the copies that we**
11 **provided to your attorney of those loans?**

12 A. No.

13 Q. **But it's your understanding that**
14 **they're TBW loans and not Home America loans?**

15 A. TBW submitted the claims, yes.

16 Q. **How did you reach that conclusion?**

17 A. I couldn't submit claims at Home
18 America.

19 Q. **Tell me what that means.**

20 A. I was not a full-service lender with
21 the FHA, which prevented me from ever making a
22 claim or insuring a loan.

23 Q. **So is it your understanding that the**
24 **false claims at issue are submitting the loans**
25 **themselves, the loan applications?**

1 A. I don't know what you're saying.

2 Q. Okay. When did you find out about
3 today's deposition?

4 A. Couple days ago.

5 Q. And what have you done to prepare
6 for your deposition?

7 A. Nothing.

8 Q. Do you understand that there's
9 portions of the Complaint that have to do with
10 the termination of Kennedy and Friddle?

11 A. I have read that, yes.

12 Q. Tell me, in your own words, your
13 understanding of those claims.

14 A. Stephanie Kennedy is claiming that
15 she worked for me and I fired her. And
16 Comfort Friddle is claiming she was fired.

17 Q. Other than your attorney -- I'm not
18 interested in or asking about any
19 conversations you've had with your attorney.
20 But have you -- well, actually I need to back
21 up on that.

22 Does Ms. Fodor represent you?

23 A. She does.

24 Q. Have you ever had conversations with
25 anyone regarding this lawsuit, not about Home

1 **America or the specific allegations in the**
2 **lawsuit, but about the fact that you've been**
3 **sued?**

4 A. Yes.

5 Q. I want to go through each and every
6 conversation you can recall.

7 A. I can't remember any of them now.

8 Q. **Then how do you know you had them?**

9 A. Because I remember talking about
10 them, but I don't remember what I said.

11 Q. **Do you remember who with?**

12 A. I probably can't remember everybody,
13 but I know I've talked to my sisters.

14 Q. **How many sisters do you have?**

15 A. Two.

16 Q. **Are they in Georgia?**

17 A. Yes.

18 Q. **What are their names?**

19 A. Christy Hicks and Lori Hollifield.

20 Q. **Who else?**

21 A. I've talked to various people over
22 the course of almost a decade here about it.

23 Q. **What do you mean "a decade"?**

24 A. Well, six years, since you filed it.

25 Q. **But it wasn't unsealed for a long**

1 **part of that time?**

2 A. Right.

3 **Q. So when did you first become aware**
4 **of the suit?**

5 A. I didn't become aware of the
6 actual -- this type of actual suit until it
7 got printed accidentally somehow or something
8 came up when it was disclosed. But rumors
9 that they were suing me from different people
10 came from years prior to. But I didn't know
11 it was a federal whistleblower lawsuit.

12 **Q. So when did you realize that it was**
13 **a federal whistleblower lawsuit?**

14 A. When it became public knowledge.

15 **Q. Have you had any conversations with**
16 **anyone regarding Stephanie Kennedy?**

17 A. I can't remember an actual
18 conversation word for word about it. I try
19 not to talk about her at all.

20 **Q. So when you say you can't remember**
21 **it word for word, that's not really my**
22 **question. My question is: Have you talked**
23 **with anyone about Stephanie Kennedy, that you**
24 **recall?**

25 A. In what manner about

1 Stephanie Kennedy?

2 **Q. Well, it would be a conversation**
3 **that included Stephanie Kennedy. That's the**
4 **question.**

5 A. I'm sure, yes.

6 **Q. Give me an example.**

7 A. Well, I talked to my ex-wife, that
8 said she got a call from your office in the
9 last couple weeks. I talked to Emily Myers,
10 who called me and said she got a call from
11 your office. I talked to Joanne Patterson,
12 who asked me about it.

13 I've talked to -- one of our closers
14 called me last week, and I can't remember her
15 name, said she got a call from you-all. They
16 asked me what was going on about it.

17 **Q. When you say "one of our closers,"**
18 **you mean --**

19 A. One of the closers that worked for
20 Taylor, Bean & Whitaker at the time.

21 **Q. Okay.**

22 A. I don't recall any other specific
23 conversations. Maybe there was some; maybe
24 there wasn't.

25 **Q. So when you spoke with your ex-wife,**

1 **tell me about that conversation.**

2 A. She called me and said that -- I
3 believe she called me and said that you had
4 called her at work and asked her if she wanted
5 to participate or give any information and
6 that I was being sued by the government.

7 **Q. And what did you tell her?**

8 A. I didn't tell her anything. I told
9 her she could talk to my attorney, if she
10 wanted to. And if she called him, she called
11 him. But I don't have a whole lot of
12 conversations with her.

13 **Q. Do you know if she called your
14 attorney?**

15 A. I don't know.

16 **Q. Tell me about your conversation with
17 Emily Myers.**

18 A. She called and said that somebody
19 had asked her if she wanted to participate in
20 this lawsuit. And she had just called to tell
21 me she told them she didn't have no desire to
22 participate in anything like this.

23 **Q. What did you tell her, or what did
24 you say?**

25 A. I said okay. There's not much to

1 it. I didn't elaborate a lot.

2 **Q. And your conversation with**
3 **Joanne Patterson?**

4 A. I updated her, what's going on, a
5 couple weeks ago, that I was still going
6 through a lawsuit with Stephanie and Comfort.

7 **Q. So when the lawsuit was unsealed,**
8 **you were not surprised, correct?**

9 A. Yeah, I was surprised.

10 **Q. What was surprising to you?**

11 A. The allegations of the claims.

12 **Q. Tell me what you mean.**

13 A. That I defrauded the government by
14 making false claims on the government.

15 **Q. Have you spoken with anyone from the**
16 **government?**

17 A. Yes.

18 **Q. Who?**

19 A. Several U.S. attorney --

20 THE WITNESS: What are they called,
21 Buddy?

22 MR. PARKER: Assistant U.S.
23 attorneys.

24 A. U.S. assistant attorneys. Spoke with
25 the head of the HUD Attorney General's Office

1 that was investigating the claims. I spoke
2 with numerous attorneys in Washington, D.C. I
3 spoke with HUD representatives in Washington,
4 D.C.

5 Q. (By Ms. Bracker) This is after the
6 case was unsealed?

7 A. Correct.

8 Q. Did you have any conversations with
9 the government before the case was unsealed?

10 A. I did.

11 Q. Who with?

12 A. U.S. Attorney's Office.

13 Q. In the Northern District of Georgia?

14 A. Here in Atlanta, yeah.

15 Q. Do you recall that person's name?

16 A. Dan Caldwell.

17 Q. How long did you speak with
18 Mr. Caldwell?

19 A. Three or four hours.

20 Q. What did you tell Mr. Caldwell?

21 A. The truth.

22 Q. So you said, "Hi, Mr. Caldwell, I'm
23 Gregory Hicks, the truth," and that's all you
24 said?

25 A. I answered every question that they

1 had.

2 Q. So did you initiate the meeting, or
3 did Mr. Caldwell?

4 A. I initiated that first meeting.

5 Q. Who attended the meeting with you?

6 A. Buddy Parker.

7 Q. Anyone else?

8 A. No.

9 Q. What questions were you asked that
10 you responded to truthfully?

11 A. I don't know. I can't remember all
12 the questions I was asked. It was four hours'
13 worth of questions, and it was a couple years
14 ago.

15 Q. Do you recall any of the questions
16 that were asked?

17 A. They asked me if I'd made false
18 claims against the government, and I said no.

19 Q. Do you remember anything else?

20 A. Not really, not word for word that
21 would be correct.

22 Q. Do you remember the gist of anything
23 else?

24 A. No. I'm sure you can get that from
25 them.

1 **Q. Why do you say that?**

2 A. Well, you can get a subpoena for it
3 probably.

4 **Q. Why do you say that I can do that?**

5 A. I would just imagine, since you're
6 representing the United States government
7 against me, that the government will be happy
8 to give you the information that they
9 obtained.

10 **Q. I want to clarify. I represent the
11 relators. I don't represent the United States
12 government. I don't want you to confuse --**

13 A. When you made the phone call last
14 week to my ex-wife, you said you were
15 representing the United States government.
16 That's the words out of her mouth. She said
17 the government is suing me.

18 **Q. That's true.**

19 A. You're sitting here saying you're
20 suing me. You're representing the relators
21 that are suing me.

22 **Q. Well, just as there's more than one
23 defendant, there's more than one plaintiff in
24 this lawsuit. So the lawsuit is being brought
25 both by the United States and by the relators.**

1 **I don't represent the government.**

2 A. I know, because the government chose
3 not to be represented in this case, period,
4 against me.

5 Q. **That's actually not true, Mr. Hicks,**
6 **but we really -- I'm not going --**

7 A. Against me personally, it is true.

8 Q. **I will have a dialogue with you**
9 **about it off the record, but we're not going**
10 **to have a conversation on --**

11 A. Well, you bought it up. Let's have
12 a dialogue now.

13 Q. **My questions are ones that you**
14 **should answer.**

15 A. I am answering. It's just leading
16 into what you don't want to hear.

17 MS. BRACKER: Would you like to
18 direct your witness, or would you like me
19 to direct your witness? It's entirely up
20 to you.

21 MR. PARKER: It's up to you.

22 MS. BRACKER: Okay. Then I would
23 prefer you to control your witness.

24 A. I don't think I'm out of control.
25 I'm answering very calm --

1 **Q. (By Ms. Bracker) Here is your next**
2 **question: When did you meet Comfort Friddle?**

3 A. I don't remember the year I met her,
4 but it was several years prior to her coming
5 to work there.

6 **Q. Several years prior?**

7 A. I guess. Maybe a year prior. I
8 don't know how long she even worked there.

9 **Q. Where did you meet her?**

10 A. In the Home America office.

11 **Q. Why was she in the Home America**
12 **office?**

13 A. Applying for a job.

14 **Q. So she was not hired at that time?**

15 A. I don't remember.

16 **Q. When was the last time you saw**
17 **Comfort Friddle?**

18 A. A couple weeks before her
19 resignation letter.

20 **Q. I'm sorry?**

21 A. A couple weeks before she gave her
22 resignation letter.

23 **Q. So you didn't see her when she**
24 **delivered this letter to you?**

25 A. I did not.

1 **Q. Have you got a copy of that**
2 **resignation letter?**

3 A. I do not.

4 **Q. When did you last speak with her?**

5 A. A couple weeks before her
6 resignation letter.

7 **Q. When did you meet Stephanie Kennedy?**

8 A. When she applied for the position at
9 Taylor, Bean & Whitaker.

10 **Q. When was that?**

11 A. I don't remember the year, but I
12 imagine it was a few years, three or four
13 years, something like that, before her
14 resignation letter to Taylor Bean.

15 **Q. When was the last time you talked to**
16 **her?**

17 A. Personally talked?

18 **Q. What other kind is there?**

19 A. Well, there's text.

20 **Q. In any way communicated with her.**

21 A. The last communication I had with
22 her was by text about six months after, I
23 guess, six or seven months, something like
24 that -- I don't know the exact time -- she
25 departed Taylor, Bean.

1 **Q. What was the substance of that text?**

2 A. I told her if she didn't quit
3 hounding me and talking about me, I was going
4 to call her husband and tell him she had an
5 affair with me.

6 **Q. What was she doing to hound you?**

7 A. You know, this person would say
8 she's saying this. This person would say
9 she's suing me. This person would say she's
10 doing whatever.

11 **Q. Tell me more specifically who these
12 people are that were saying this.**

13 A. I can't remember who all said it
14 now. It just got back through me. Remember,
15 I had hundreds of employees.

16 **Q. Did she respond to that text?**

17 A. She said, I call a truce.

18 **Q. And then what did you say?**

19 A. That was it.

20 **Q. Have you ever talked to her husband,
21 John Kennedy?**

22 A. Yeah, I've talked to him.

23 **Q. When did you meet him?**

24 A. Well, first of all, it's not her
25 husband anymore.

1 **Q. I'm aware.**

2 A. Ex-husband.

3 **Q. When did you first meet him?**

4 A. I don't remember. Sometime after
5 she came to work.

6 **Q. Have you spoken with John Kennedy
7 since Stephanie Kennedy's termination?**

8 A. Yes.

9 **Q. When?**

10 A. At the mortgage convention in -- I
11 don't remember -- was it in Jacksonville or
12 St. Simons or Amelia Island or something? It
13 was after her termination -- not termination,
14 after her resignation.

15 You-all keep saying termination.
16 She resigned.

17 **Q. Was she present for that
18 conversation?**

19 A. She was in the room, yeah.

20 **Q. But she wasn't standing where
21 you-all were talking?**

22 A. She was standing about here to the
23 bookcase when he walked up to me.

24 **Q. What was that conversation?**

25 A. There was really no conversation.

1 **Q. Have you spoken with him any other**
2 **time since she was terminated?**

3 A. Not me.

4 **Q. I don't know what that means.**

5 A. It means not me.

6 **Q. You're saying someone else has?**

7 A. I don't know, but I haven't.

8 **Q. Have you texted him or e-mailed him?**

9 A. I haven't.

10 **Q. No phone calls, no nothing, no --**

11 A. I haven't.

12 **Q. -- communications? Sorry. No**
13 **communications?**

14 A. Well, how many times do I need to
15 answer that?

16 **Q. Until I stop asking the question.**

17 A. Well, you can keep asking me for
18 seven hours. I haven't talked to him or
19 spoken to him or texted him.

20 **Q. Can you please state your full name**
21 **for the record.**

22 A. James Gregory Hicks.

23 **Q. And your date of birth?**

24 A. [REDACTED].

25 **Q. And your current home address?**

1 A. [REDACTED], Braselton,
2 Georgia [REDACTED].

3 Q. Have you ever been known by any
4 other names?

5 A. No, I don't think so.

6 Q. Have you ever served in the armed
7 services?

8 A. No.

9 Q. How many times have you been
10 married?

11 A. Once.

12 Q. And you're not currently married,
13 correct?

14 A. Correct.

15 Q. And your ex-wife's name?

16 A. Desiree Renee. I don't know what
17 her last name is. Phillips, I think, yeah.

18 Q. Where does she live now?

19 A. I don't know.

20 Q. What state does she live in now?

21 A. Georgia.

22 Q. Is there an order of support for the
23 court regarding your divorce?

24 A. No.

25 Q. No children?

1 A. Yes.

2 Q. I asked a bad question. Do you have
3 any children?

4 A. Yes.

5 Q. With Desiree?

6 A. Yes.

7 Q. What are their names?

8 A. Devin Nicole Hicks.

9 Q. Can you spell Devin.

10 A. D-e-v-i-n.

11 Q. How old is Devin?

12 A. 20.

13 Q. Where does she live?

14 A. University of Georgia.

15 Q. Any other children with
16 Desiree Hicks, formerly Hicks?

17 A. No.

18 Q. Any other children with any other
19 women?

20 A. No.

21 Q. Any other relatives in Georgia other
22 than the two sisters you've identified and
23 your child?

24 A. I mean, there's cousins and aunts
25 that I don't really know.

1 **Q. What property do you own, Mr. Hicks?**

2 A. What property do I own?

3 **Q. Yes, sir.**

4 A. I own my home.

5 **Q. The Legends Drive home you just**
6 **identified?**

7 A. Yes.

8 **Q. Any other property?**

9 A. I own 20 Moon, the property at 20
10 Moon.

11 **Q. That's the BodyPlex thing you just**
12 **referred to?**

13 A. That's right.

14 **Q. And that's in Georgia, you said?**

15 A. Yes.

16 **Q. What city of Georgia is that?**

17 A. Grayson.

18 **Q. Any other property you own?**

19 A. Florida, a house in Florida.

20 **Q. What's the address of that property?**

21 A. 2896 Tomoka, T-o-m-o-k-a, Farms
22 Road.

23 **Q. Is that a residence?**

24 A. Port Orange. It is.

25 **Q. But your principal residence is**

1 **Georgia?**

2 A. It is right now.

3 **Q. Any other properties you own?**

4 A. Personally? I think almost
5 everything is sold now. Yes, everything else
6 is sold, I think. Yeah.

7 **Q. What do you have an ownership
8 interest in, whether or not you solely own it
9 or own it personally?**

10 A. 20 Moon Properties.

11 **Q. I would like to know what property
12 you have an ownership interest in, whether you
13 personally own it or not.**

14 MR. PARKER: May I suggest you defer
15 that? We're almost finalizing the
16 interrogatory responses, and you're going
17 to have an answer on all the corporate
18 entities. I'll give it to you during the
19 day.

20 MS. BRACKER: Okay. We'll defer
21 that for the moment, then.

22 **Q. (By Ms. Bracker) Have you ever been
23 arrested, Mr. Hicks?**

24 A. No.

25 **Q. Have you ever been subject to**

1 **disciplinary action?**

2 A. Yeah, with a belt.

3 Q. **Anything else?**

4 A. Like what? Define "disciplinary
5 action."

6 Q. **Well, what does it mean to you,
7 disciplinary action?**

8 A. Well, corrective. But, you know,
9 I'm 46 years old. So I've been corrected a
10 lot in my lifetime.

11 Q. **Other than by your parents, and
12 we'll exclude your childhood, who have you
13 been corrected by?**

14 A. You want to go to high school and
15 all that too?

16 Q. **Not particularly, no.**

17 A. Well, then, ask the question that
18 you're asking. What do you want to know?

19 Q. **Let's start at 18.**

20 A. I got reprimanded a lot on my first
21 job at the fire department.

22 Q. **What for?**

23 A. Well, sometimes being late.

24 Q. **What fire department were you with?**

25 A. Gwinnett County.

1 **Q. How long were you with the fire**
2 **department?**

3 A. 11 years.

4 **Q. Was that your first job out of high**
5 **school?**

6 A. Well, my first real job.

7 **Q. What high school did you graduate**
8 **from?**

9 A. Lithonia High School.

10 **Q. What year did you graduate?**

11 A. '84.

12 **Q. Did you attend college?**

13 A. Went to Mercer University for three
14 years.

15 **Q. But didn't graduate?**

16 A. I did not graduate.

17 **Q. So what did you do when you left**
18 **Mercer?**

19 A. Became a fireman.

20 **Q. What occasioned your leaving Mercer**
21 **and coming back to be a fireman?**

22 A. I was broke.

23 **Q. Do you recall any other time you've**
24 **been subjected to disciplinary action or, as**
25 **you said, corrected since 18, other than at**

1 **your first job with the fire department?**

2 A. Speeding tickets.

3 **Q. Anything else?**

4 A. Let me think how many times I've
5 been -- I guess it goes up to the -- Georgia
6 Banking Association disciplined me for hiring
7 practices at Home America.

8 **Q. When was that?**

9 A. I don't know. 2004, 2003, '2 maybe.

10 **Q. So can you explain to me what the
11 allegations were.**

12 A. Yeah. I hired four employees that
13 came to work and started working but did not
14 give proper resignations to their past
15 employer, which constituted them working for
16 two employers at one time, which got me a
17 \$5,000 fine.

18 Actually, they didn't get me. I'm
19 sorry. They got Home America. So I shouldn't
20 have even said that because that's not me. I
21 didn't get disciplined for it.

22 **Q. Can you think of any other time when
23 you've been disciplined?**

24 A. I was disciplined by Freddie Mac.

25 **Q. Was that you or Home America?**

1 A. Me and Home America both.

2 **Q. What was the substance of that?**

3 A. I was cut off from doing business
4 with Freddie Mac -- or I was put on the list
5 not to do with business with Freddie Mac. I
6 never did business with Freddie Mac anyway
7 directly.

8 **Q. And why was that?**

9 A. Well, my cutoff letter said they
10 didn't have faith in my ability to manage.
11 Not fraud.

12 **Q. Why do you think they did that when
13 you don't do any business with them?**

14 A. I think they did that because of
15 your clients' testimonies of lies they told
16 them.

17 **Q. Any other time you recall being
18 disciplined?**

19 A. No.

20 **Q. Any other time that Home America was
21 disciplined?**

22 A. Home America got several write-ups
23 on FHA audits for minor situations.

24 **Q. Several write-ups? Is that what you
25 said?**

1 A. Yeah, on audits. All companies got
2 write-ups on audits.

3 **Q. Why was FHA auditing Home America**
4 **when Home America didn't do business with**
5 **them?**

6 A. Well, Home America was still the
7 originating factor on it. So they look at the
8 originating part of the deal.

9 **Q. So explain to me what an originator**
10 **is.**

11 A. An originator obtains a person
12 that's willing and looking for a loan
13 application, takes the loan application,
14 processes that application, and submits it to
15 an approving entity that is capable of funding
16 and is capable of lending it.

17 **Q. And that subjects you to review by**
18 **the FHA?**

19 A. Yes. Every company is reviewed.
20 Every broker, everybody that does any FHA loan
21 is subject to review by FHA.

22 **Q. When you left the fire department,**
23 **what was your next employment?**

24 I'm going to work it out out loud.
25 **You graduated around the time you were 18 and**

1 **you spent about three years at Mercer. That's**
2 **around 21.**

3 A. Correct.

4 Q. **And you spent about 11 years with**
5 **the fire department. That puts you around 32.**
6 **Does that sound right to you?**

7 A. Yes.

8 Q. **So around 32 you left the fire**
9 **department, and what did you do?**

10 A. See, while I was at the fire
11 department, I already started on my off days
12 of being in the mortgage business working for
13 a bank called the Bank of Loganville.

14 Q. **What was your position?**

15 A. Mortgage loan officer.

16 Q. **So '84 is graduation. '87 is leave**
17 **Mercer.**

18 A. No, I think -- yeah, '89 is probably
19 when I started doing it on my off days.
20 Firemen work two days a week, off five days a
21 week. So most of them took two jobs.

22 Q. **Were you married at this time?**

23 A. At which time?

24 Q. **At the time that you started, in**
25 **1989, when you started working at the Bank of**

1 **Loganville on your off days.**

2 A. Yes.

3 Q. **Do you recall what year you got**
4 **married?**

5 A. No. No, I don't. It was before '93
6 because that's when Devin was born.

7 Q. **So you were full-time with the fire**
8 **department and part-time with the Bank of**
9 **Loganville until around when?**

10 A. I don't know. Until about 2000,
11 2001, 2000 maybe.

12 Q. **And what happened then to change**
13 **that?**

14 A. I left the Bank of Loganville and
15 went to work directly for the person that was
16 buying the loans for Bank of Loganville at
17 that time.

18 Q. **Who was that?**

19 A. Taylor, Bean & Whitaker.

20 Q. **Who hired you at Taylor, Bean &**
21 **Whitaker?**

22 A. Stan Kelly, president.

23 Q. **What was your position?**

24 A. I've already stated, loan officer.

25 Q. **What were your job duties as a loan**

1 **officer?**

2 A. To find willing and wanting people
3 in search of a mortgage origination to
4 purchase a home.

5 **Q. How did you do that?**

6 A. Always looking, talking to real
7 estate agents, getting real estate agents to
8 refer people to me, handing cards out, running
9 ads, talking with bank people that came in to
10 make their deposits or do their banking. The
11 bank would refer them to me.

12 **Q. How were you compensated during your
13 time at --**

14 A. Commission only.

15 **Q. What was the setup there?**

16 A. 60/40 of the profit generated on
17 each loan.

18 **Q. I didn't understand the last part,
19 I'm sorry.**

20 A. 60 percent me, 40 percent to the
21 bank on the profit after all expenses were
22 paid on each loan.

23 **Q. Do you know what your first year
24 with them would have been? 2002?**

25 A. I want to state for the record I

1 don't know the exact years of any of this.

2 Q. Sure. When you had your first year
3 with TBW, were you successful, in your
4 opinion?

5 A. What's your opinion of success?

6 Q. I don't care. I want to know your
7 opinion. Do you consider --

8 A. Well, my opinion of success, I was
9 happy.

10 Q. Okay. Do you recall what you made
11 that year?

12 A. If that's what you wanted to know,
13 that's what you should have asked.

14 Q. Well, I wanted to know both. Did
15 you --

16 A. I don't know.

17 Q. You don't recall?

18 A. I don't remember.

19 Q. How about the year after?

20 A. I don't remember.

21 Q. Do you remember a ballpark?

22 A. No. \$100,000 maybe, at the most,
23 something like that.

24 Q. How long were you with TBW in the
25 position of loan officer?

1 A. Two or three years.

2 **Q. And then what happened?**

3 A. I tried to acquire a company called
4 Taylor, Bean & Whitaker, Limited, from Taylor,
5 Bean & Whitaker, which was the mortgage
6 origination part and not the lender part that
7 was already started. And it had too many
8 investors and everything, and it did not work
9 out. And they had changed their name to Home
10 America Mortgage.

11 So in the end, I started -- I had to
12 start a new corporation and a new mortgage
13 company, but I got that name of Home America
14 Mortgage from Taylor, Bean & Whitaker.

15 **Q. Is that the deposition you referred
16 to earlier about the dispute over the name?**

17 A. Correct.

18 **Q. Who was in litigation with you about
19 that?**

20 A. I don't remember the names of all
21 the people that were -- I think they had
22 people that had invested in Taylor, Bean &
23 Whitaker, Limited, and, you know, there was
24 going to be this big national lender that
25 didn't work out. And I was going to take over

1 the company, but it wouldn't work out because
2 of the amount of investors and people wanting
3 so much money. But they did sign off on the
4 name eventually, just let me have the name.

5 **Q. Do you recall about when that was?**

6 A. I guess it was about 2003, 2004,
7 maybe '4, something like that. Yeah, maybe
8 2004. I don't know. Again, the dates you
9 can't hold me to because I don't know.

10 **Q. So around 2004, around that time,
11 you became the owner of Home America Mortgage;
12 is that correct?**

13 A. I became one of them.

14 **Q. Who were the others?**

15 A. Taylor, Bean & Whitaker at that time
16 owned 10 percent.

17 **Q. How long did that stay true?**

18 A. I don't know. They took their 10
19 percent and divided it up between three
20 entities later down the line, and I don't know
21 when they did that.

22 **Q. Which three entities?**

23 A. Lee Farkas, Gary Garrett, and
24 Timothy Parker.

25 **Q. Were they also TBW employees?**

1 A. No.

2 Q. **What was Lee Farkas's position at**
3 **that time?**

4 A. He was a TBW employee, CEO.

5 Q. **And Gary Garrett?**

6 A. I think he was unemployed. And
7 Tim Parker was retired.

8 Q. **And you don't know when that**
9 **happened?**

10 A. I don't know the exact dates on all
11 that. I have no idea when they did that.
12 That was their stock.

13 Q. **And the other 90 percent was yours?**

14 A. Correct.

15 Q. **When did you sell Home America**
16 **Mortgage?**

17 A. I think the beginning of 2009.

18 Q. **Why did you sell the business?**

19 A. Well, it seemed like with the
20 Freddie Mac thing going on, even though that
21 did not put Home America out of business in
22 any way, shape, or form -- it was still in
23 good standings with Freddie Mac, FHA, VA,
24 Ginnie Mae, and almost every other lender out
25 there that I could have ever done business

1 with -- it just seemed like a good time to do
2 it.

3 Q. I want to understand what you just
4 told me. You were saying lenders you had done
5 business with, including Freddie Mac,
6 Ginnie Mae --

7 A. I didn't say Freddie Mac. I said I
8 was in good standings, other than with Freddie
9 Mac, I was in good standings with everybody
10 else that's in the industry.

11 Q. I see. I understand now.

12 A. Which would not put Home America --
13 which Home America could have kept doing
14 business.

15 Q. Then why did it seem like a good
16 time to get out of it?

17 A. I was tired of it.

18 Q. Who did you sell the business to?

19 A. Taylor, Bean & Whitaker.

20 Q. Do you remember when the sale was
21 consummated?

22 A. Beginning of 2009.

23 Q. Did you retain any ownership
24 interest?

25 A. No. I was fired.

1 **Q. By whom?**

2 A. I was fired at the closing table.

3 **Q. By whom?**

4 A. By the closing attorney.

5 **Q. What was his name?**

6 A. I don't remember.

7 **Q. Who represented you in the sale?**

8 A. I can't remember the name of that
9 law firm.

10 THE WITNESS: What's that big law
11 firm, Buddy? Do you know?

12 MR. PARKER: Powell Goldstein? Was
13 that it?

14 THE WITNESS: No. It was --

15 A. Steve Dunlevie was the attorney.

16 THE WITNESS: Dennis, do you
17 remember?

18 A. Can I ask Dennis the name of the
19 attorney firm?

20 **Q. (By Ms. Bracker) Sure.**

21 MR. MOSELEY: Womble Carlyle.

22 THE WITNESS: See, there you go.

23 **Q. (By Ms. Bracker) And did you have
24 an accountant advising you for that sale?**

25 A. I had many people advising me on

1 that sale.

2 Q. Tell me who all advised you on that
3 sale.

4 A. Many attorneys out of Womble
5 Carlyle. I had probably four attorneys
6 working on it.

7 Q. Who else?

8 A. I had William Sammons, the
9 accountant. And that's it.

10 Q. Is William Sammons with a firm?

11 A. Yeah. I can't remember the name. I
12 don't know the name of the firm now. I
13 haven't talked to him in a while.

14 Q. Do you recall who represented Taylor
15 Bean? You said you don't recall --

16 A. I don't remember.

17 Q. -- the closing attorney. You don't
18 remember?

19 A. No, I don't remember. We were in
20 their office. It was right here, though. I
21 know where the office is, but I don't remember
22 the attorney.

23 Q. Who provided the valuation for Home
24 America when you sold it?

25 A. It was an agreed-upon offer between

1 Lee Farkas of Taylor, Bean & Whitaker and
2 myself. They did an audit, but I was not
3 privy -- I mean, they did an appraisal, but I
4 was not privy to the appraisal.

5 **Q. And you don't know who conducted it?**

6 A. No, I don't remember.

7 **Q. So Lee Farkas had an appraisal done,
8 you were not privy to the appraisal, but as a
9 consequence of that, he offered you what for
10 your company?**

11 A. It was basically \$10 million from
12 the sale at closing. It was a \$10 million
13 deal at closing, \$1 million down, everything
14 else paid over quarterly -- 9 million paid
15 over quarterly. They bankrupted me on the
16 rest, if that's what you want to know.

17 About time to take a break?

18 **Q. Sure.**

19 MS. BRACKER: We'll go off the
20 record at 11:12.

21 (Whereupon a recess was taken from
22 11:12 a.m. to 11:21 a.m.)

23 **Q. (By Ms. Bracker) Have you ever
24 talked to John Kennedy about your alleged
25 affair with Stephanie Kennedy?**

1 A. No.

2 Q. Have you ever talked to anyone else
3 about your alleged affair with
4 **Stephanie Kennedy?**

5 A. Dennis, my attorneys.

6 Q. **Anyone else?**

7 A. No.

8 Q. **When did you meet Lee Farkas?**

9 A. When I worked at the Community Bank.

10 Q. **Is that Loganville?**

11 A. Yes, Loganville, Bank of Loganville.

12 Q. **How did you come to meet him?**

13 A. Taylor Bean was the lender for that
14 bank.

15 Q. **So you were selling him loans?**

16 A. Correct.

17 Q. **What was his position at that time?**

18 A. CEO of Taylor Bean.

19 Q. **Were you surprised when you were
20 fired at the closing table?**

21 A. Yes.

22 Q. **What were you expecting?**

23 A. Well, the deal was they wanted me to
24 stay on, so nobody quit and everything.

25 Q. **Did you have any subsequent**

1 **conversations about being fired at the closing**
2 **table with Lee Farkas?**

3 A. No.

4 **Q. With anyone?**

5 A. No.

6 **Q. No one?**

7 A. I don't know if I did or not. I
8 don't remember. I don't remember who I had a
9 conversation with.

10 **Q. What did you do when you were fired**
11 **at the closing table, for a job, if anything?**

12 A. Define "job." Is a job making
13 money? That would be defined as a job, right?

14 **Q. Sure.**

15 A. Okay. Well, I haven't made no
16 money. So I haven't worked.

17 **Q. I'm going to broaden that definition**
18 **a little bit.**

19 A. I figured you would.

20 **Q. So where have you worked?**

21 A. I own the BodyPlex gym still.

22 **Q. Do you work there?**

23 A. No. I say I own it. I own 49
24 percent.

25 **Q. Who owns the rest?**

1 A. Cleve Long.

2 Q. **How are you paid for that?**

3 A. Well, that's what I just said.

4 Since the money I've taken out doesn't equal
5 to the money I've put in, I haven't been paid.

6 We defined a job as making money. I
7 ain't made no money.

8 Q. **Well, we broadened that, as you
9 expected. So now I'm asking a completely
10 different question.**

11 **Do you get paid from your ownership
12 of the BodyPlex gym at all?**

13 A. I do. Dividends only, no paycheck.

14 Q. **When are you paid dividends?**

15 A. Quarterly.

16 Q. **In what range are your dividends?**

17 A. I refuse to answer anything on my
18 income now. But it's not much.

19 MS. BRACKER: Are you instructing
20 your client not to answer?

21 MR. PARKER: He's choosing not to
22 answer.

23 MS. BRACKER: Are you going to
24 direct him to answer or not to answer?

25 MR. PARKER: No. It's not relevant.

1 If you get a judgment, you can get
2 discovery on your judgment.

3 MS. BRACKER: Okay.

4 A. I will give you the balances of --

5 Q. (By Ms. Bracker) I'm sorry. I'm
6 not interested in you piecemealing and giving
7 me what you choose to. It's fine.

8 MS. BRACKER: If you want to stand
9 on that objection, you can stand on that
10 objection. I just don't want to waste the
11 time asking all the little questions, if
12 you're going to direct him not to answer.

13 Q. (By Ms. Bracker) Do you still keep
14 in touch with Lee Farkas?

15 A. No.

16 Q. Have you had any contact with him
17 since the closing table?

18 A. Yes.

19 Q. When?

20 A. We had a -- we opened -- I bought
21 part of a bar that he had here in Atlanta,
22 post-closing.

23 Q. What bar is that?

24 A. It was Primal.

25 Q. What part did you buy? What

1 **percentage?**

2 A. I don't remember exact percentages.
3 Somewhere between 40 and 50 percent.

4 **Q. Did he retain the rest of it, or did**
5 **you buy his share of it?**

6 A. He retained.

7 **Q. So you're still business partners?**

8 A. Not in the mortgage business.

9 **Q. Well, that's fine. But you're still**
10 **business partners?**

11 A. I don't think he owned that
12 percentage actually. I think it was held by a
13 corporation. So, I mean, I don't know what
14 his ownership of the corporation is. So I
15 can't answer that question, if me and him were
16 business partners or not.

17 **Q. Do you have any other business**
18 **interests in common with Lee Farkas or any of**
19 **his corporations that you're aware of?**

20 A. No.

21 **Q. Do you still have part interest in**
22 **the Primal club in Atlanta?**

23 A. No.

24 **Q. When did you divest yourself of that**
25 **interest?**

1 A. Two years ago or so.

2 Q. **Did you sell it?**

3 A. I just sold it.

4 Q. **Who did you sell it to?**

5 A. Their first names were Harry and
6 Sonny. I don't know their last names.

7 Q. **What did they pay you for it?**

8 A. Like \$200,000 on a note that they
9 didn't pay.

10 Q. **So other than your ownership
11 interest in the BodyPlex gym, do you have any
12 other businesses you regularly take part in
13 now --**

14 A. No.

15 Q. **-- with or without being paid for
16 it?**

17 A. No.

18 Q. **What do you do with your days?**

19 A. Whatever.

20 Q. **That's not responsive.**

21 A. Yeah, sure, it is.

22 Q. **What are your hobbies?**

23 A. I get up; eat breakfast, lunch, and
24 dinner; hang out during the day and then go to
25 bed at night. That's my day.

1 **Q. Where do you hang out?**

2 A. At the house.

3 **Q. The Florida house or the Georgia**
4 **house?**

5 A. Whichever house I'm at.

6 **Q. About what percentage of the time do**
7 **you spend in Florida?**

8 A. 35 percent maybe, 40, something like
9 that.

10 **Q. Does anyone else live in the house**
11 **in Florida?**

12 A. No.

13 **Q. Does anyone else live in the house**
14 **in Georgia?**

15 A. No.

16 **Q. What are your hobbies?**

17 A. I don't have any.

18 **Q. I've seen a lot of magazine articles**
19 **about you and motorcycles. You don't do that**
20 **anymore?**

21 A. No.

22 **Q. When did you stop doing that?**

23 A. Two years ago. I forgot about
24 Easyriders.

25 **Q. When you took over what started as**

1 **Taylor, Bean & Whitaker, Limited, but**
2 **ultimately turned into Home America**
3 **Mortgage --**

4 A. Correct.

5 **Q. -- when you started --**

6 A. Actually, it didn't turn into Home
7 America Mortgage because Taylor, Bean &
8 Whitaker, Limited, was not able to be bought.
9 So Home America Mortgage started over new.

10 **Q. When it started new, who were the**
11 **employees?**

12 A. I can't remember. We had already
13 built up 60 employees. I can't remember
14 exactly who. But Dennis was there. I mean, I
15 can give you a few, but I don't know --

16 **Q. Sure. Give me the ones you can**
17 **recall.**

18 A. Sylvia, Ronnie Rice -- no,
19 Ronnie Rice wasn't an employee then. Rice was
20 never an employee of mine. Justin Price,
21 Dennis Moseley. And when I took it over at
22 that time, I don't remember -- I can't
23 remember who all the employees were. But I
24 know that them couple were there.

25 Christy Hicks, my sister, was there with us.

1 **Q. When say you took it over, what do**
2 **you mean?**

3 A. Well, I keep saying take it over,
4 but I didn't. I started it.

5 **Q. Well, that's my confusion.**

6 A. Yeah. But the plan was the whole
7 time on the year deal of trying to get this
8 deal from Taylor, Bean, Limited, to become
9 Home America, me purchasing it was a year-long
10 deal that never worked out, which ultimately
11 formed a new company from scratch.

12 **Q. So the employees were in position**
13 **and working, and it wasn't clear which company**
14 **they would be part of until you finally just**
15 **said, I'm starting Home America Mortgage?**

16 A. Correct. They were Taylor Bean
17 employees.

18 **Q. How did you know Justin Price?**

19 A. He was my wife's brother.

20 **Q. How did you meet Mr. Moseley?**

21 A. He came in for an interview when he
22 was about 12, whatever, with a bowtie on.

23 **Q. Did you have a position other than**
24 **owner? Were you president? Were you CEO?**
25 **What was your title at Home America?**

1 A. I was president then, I believe.

2 Q. **And then at some point, Mr. Moseley**
3 **became president, correct?**

4 A. Correct.

5 Q. **Has anybody else ever been**
6 **president?**

7 A. No.

8 Q. **Do you remember approximately when**
9 **Mr. Moseley became president?**

10 A. I don't know. '05, '06, something
11 like that, '07. I don't -- maybe '07. I
12 don't know. Maybe '07, somewhere in that
13 neighborhood.

14 Q. **So why did you decide to have a**
15 **different president?**

16 A. To alleviate some of the duties off
17 of me alone.

18 Q. **So what duties were you engaging in**
19 **as president?**

20 A. Every duty that a president engages
21 in in a company, from financing, financials,
22 to the daily operations, to the bill-paying,
23 to the insurance, to -- you name it,
24 everything that goes into running a company.

25 Q. **So when you were president of Home**

1 **America Mortgage, were you in the office five**
2 **days a week?**

3 A. No.

4 Q. **How often were you in the office?**

5 A. Seven.

6 Q. **Full, regular business hours or**
7 **extended hours?**

8 A. About 20-hour days a lot of times,
9 sometimes. 15 hours was probably a standard
10 day.

11 Q. **When did The Hicks Team form?**

12 A. I don't remember the exact dates.
13 The Hicks Team is nothing more than what some
14 people inside the company called The Hicks
15 Team. They were still nothing but Home
16 America employees.

17 Q. **Well, in driving around North**
18 **Fulton, I saw signs for The Hicks Team all**
19 **over the place. So signage, I know.**

20 A. I know there's signage, yeah.

21 Q. **So who was on The Hicks Team?**

22 A. I'll defer that to the discovery
23 that you'll get.

24 Q. **Well, I want your answer now.**

25 A. Well, The Hicks Team ranged for a

1 few years, so we had a lot of different people
2 on it. I'm going to have trouble remembering
3 everybody that worked on The Hicks Team or off
4 The Hicks Team.

5 **Q. Well, if your response is less**
6 **complete than what you give me in the**
7 **interrogatory, I understand that, but I'd like**
8 **your recollection, so we can have a**
9 **discussion.**

10 **So who do you recall being on The**
11 **Hicks Team?**

12 A. Justin Price.

13 **Q. And he was serving as a loan**
14 **officer?**

15 A. Yes. Becky Wright.

16 **Q. And her job was?**

17 A. Loan officer. Misty Chripholous.

18 **Q. Her position?**

19 A. Loan officer. Lindsey Metzger, she
20 was a loan officer. And I had a non-loan
21 officer assistant that helped answer the
22 phones and all, but I can't remember her damn
23 name.

24 **Q. Anyone else?**

25 A. That was the last group. But over

1 the years, there's probably 20 other people
2 that was on or off it.

3 **Q. So was there any non-loan officers**
4 **who were part of The Hicks Team?**

5 A. No.

6 **Q. No processors dedicated to The Hicks**
7 **Team?**

8 A. They were processors, but they
9 processed for other people as well a lot. So
10 there was a processor assigned to The Hicks
11 Team.

12 **Q. Who was that?**

13 A. Gwen was the last one. But over the
14 years, there's been many.

15 **Q. Do you remember her last name?**

16 A. No.

17 THE WITNESS: Dennis, do you
18 remember Gwen's last name? It started
19 with a "G," didn't it, or something?
20 Gaston?

21 MR. MOSELEY: You'll have to go with
22 that. I don't recall.

23 A. I don't remember Gwen's last name.
24 That was the last processor I know that
25 processed for The Hicks Team. I don't

1 remember her name.

2 Q. (By Ms. Bracker) You've already
3 told me a loan officer's job is to locate
4 people who need a loan, residential loan, and
5 bring them in?

6 A. Uh-huh (affirmative).

7 Q. What responsibilities did a Hicks
8 Team loan officer have?

9 A. Same responsibilities as any other
10 loan officer. Take the application, submit it
11 for processing, and follow it to closing.

12 Q. Did people who hired into The Hicks
13 Team go through you only? Who did they
14 interview with?

15 A. Yeah, to me.

16 Q. And how were they paid?

17 A. Salary, plus commission.

18 Q. How was commission calculated?

19 A. Volume of loans that were produced
20 through that group.

21 Q. Through the group as a whole?

22 A. Uh-huh (affirmative).

23 Q. And what was the percentage split?

24 A. Every one of them had a little bit
25 of different ones, but it was not that much of

1 a percentage split from the -- on the
2 commission. So they only got -- I can't
3 remember exactly how it was structured, but
4 the group got a certain percent, like 10
5 percent, and then they divided that up between
6 them. And the longer they were on The Hicks
7 Team, the percentage of the division was
8 greater.

9 **Q. What would you say a loan officer on**
10 **The Hicks Team made on average as a salary?**

11 A. You know, you ranged from -- so on
12 average. Can I see a piece of paper?

13 **Q. A range is fine, if you'd rather**
14 **give me a range.**

15 A. You know, I can't tell you -- I
16 can't speak on their behalf. You need to ask
17 them what they made, if you want to ask them.
18 That would be better. I don't think I feel
19 right giving somebody else's personal
20 information out.

21 **Q. Are you refusing to answer?**

22 A. I think so. Yeah, that's not my --
23 I can't speak on behalf of what another person
24 made.

25 **Q. I'm not asking what they took home**

1 **or their names. That's why I asked on**
2 **average. So you're not disclosing anyone's**
3 **personal information.**

4 A. And I can't give you an actual
5 average.

6 Q. **Well, I rephrased my question. Give**
7 **me a range of what loan officers made on The**
8 **Hicks Team.**

9 A. Okay. I'm going to answer this. I
10 do not know what they made at the end, the top
11 person, and I don't know what the bottom
12 person made. I know it's probably somewhere
13 in the range of \$20,000 on the bottom to a
14 couple hundred thousand on the top, maybe not
15 even a couple hundred. Maybe a hundred and --
16 see, I don't know. I can't answer the
17 question.

18 Q. **Who did payroll?**

19 A. Payroll department.

20 Q. **Which was who?**

21 A. Christina Fishback, Lori Hollifield.

22 THE WITNESS: What was the other
23 accountant's name, Dennis?

24 Q. **(By Ms. Bracker) Is that**
25 **Lori Hollifield, your sister?**

1 A. Yes.

2 MR. MOSELEY: That would be payroll.

3 THE WITNESS: I know. But who was
4 the other accountant?

5 MR. MOSELEY: He didn't do payroll.

6 THE WITNESS: Oh, he didn't?

7 A. That's it. That's payroll.

8 Q. (By Ms. Bracker) When you were in
9 your role as president and owner and then
10 later when you were just in the role of owner,
11 were you aware then what people made?

12 A. I don't understand what you just
13 said, in my role as just owner.

14 Q. Well, when Mr. Moseley became
15 president and you remained in the position of
16 owner, did you have another title at that
17 time?

18 A. CEO.

19 Q. So in your roles, various, at Home
20 America Mortgage, were you aware at that time
21 of what people made?

22 A. No, not really.

23 Q. Were you aware in a range of what
24 they made?

25 A. Not really.

1 **Q. Were you aware of who the top**
2 **producers were?**

3 A. Yes.

4 **Q. Who were your top producers?**

5 A. Well, what year?

6 **Q. Across time in general.**

7 A. It changed every year. So I --

8 **Q. Okay. We'll start with the first.**

9 A. I don't remember.

10 **Q. Tell me what you remember.**

11 This is going to be a very long day
12 if we're going to chase our tails this way.
13 I'm kind of over it?

14 A. You need want to be specific.

15 **Q. 2002?**

16 A. I don't remember.

17 **Q. 2003?**

18 A. I don't remember.

19 **Q. 2004?**

20 A. I don't remember.

21 **Q. 2005?**

22 A. I don't remember.

23 **Q. 2006?**

24 A. I don't remember.

25 **Q. 2007?**

1 A. I don't remember.

2 Q. 2008?

3 A. I don't remember.

4 Q. 2009?

5 A. I don't remember.

6 Q. 2010?

7 A. I wasn't there.

8 Q. Yeah, you're clearly not paying too
9 much attention by this point, but okay.

10 So now, you do recall some things
11 because --

12 A. I know the top producers of the
13 company, you know, which ones they were. But
14 you asked me which was the top producer. I
15 don't know.

16 Q. Well, my question was --

17 A. And I don't know what determines who
18 was the top producer.

19 Q. You're talking over me, so you need
20 to stop now.

21 Whatever question you can answer
22 about top producers, please answer it.

23 A. I don't know what you mean by "top
24 producers."

25 Q. Didn't you just tell me you knew the

1 **top producers for the company?**

2 A. Yes.

3 Q. **Please tell me who --**

4 A. So what's your definition of top
5 producer, and I'll answer it?

6 Q. **Whatever you meant when you just
7 said it.**

8 A. Me. I was the top producer of the
9 company.

10 Q. **Anyone else?**

11 A. That's all I remember, for rankings.

12 Q. **As far as rankings, you only know
13 that you were at the top?**

14 A. I was at the top.

15 Q. **Every year?**

16 A. Every year.

17 Q. **How did you not remember that about
18 2002?**

19 A. Well, I forgot it until just then.

20 Q. **Okay. What is a bad loan?**

21 A. I don't know. I don't know what you
22 mean.

23 Q. **You've never heard the phrase "bad
24 loan" before?**

25 A. Yeah, but you'd have to give me a

1 definition of what a bad loan is and I'll tell
2 you.

3 **Q. Mr. Hicks, I'm asking the questions.**

4 A. I don't --

5 **Q. And I'm asking you what your**
6 **understanding of the phrase "bad loan" is.**

7 A. I don't know. I have no idea what a
8 bad loan is.

9 **Q. What about a fraudulent loan?**

10 A. I guess a loan that would contain
11 fraud in it.

12 **Q. Are you familiar with the HUD**
13 **mortgage credit analysis handbook?**

14 A. I am.

15 **Q. What is it?**

16 A. I guess it's an SOP, operating
17 procedures, from HUD on lending practices.

18 **Q. What's its purpose?**

19 A. To give guidelines.

20 **Q. For what?**

21 A. For loan criterias.

22 **Q. For all loans?**

23 A. No.

24 **Q. For which loans?**

25 A. FHA loans.

1 **Q. What's a direct underwriter?**

2 A. An underwriter that's been endorsed
3 to make credit decisions on behalf of HUD.

4 **Q. Endorsed by whom?**

5 A. HUD.

6 **Q. What direct underwriters worked in
7 the Home America office building?**

8 A. During what years?

9 **Q. 2002.**

10 A. Ronnie Snowden.

11 **Q. Any others?**

12 A. No.

13 **Q. 2003?**

14 A. Ronnie Snowden.

15 **Q. Any others?**

16 A. No, I don't think so.

17 **Q. 2004?**

18 A. Dee Wardlaw. Ronnie -- see, again,
19 I don't know when Stephanie came and when
20 Ronnie left. But I'll put them in 2004, but
21 they might not have been there together at
22 that time.

23 **Q. Is that Stephanie Kennedy?**

24 A. Stephanie Kennedy. I'm not sure
25 when she came, but, you know --

1 **Q. That's fine. 2005?**

2 A. Well, wait a minute. We ain't done
3 with 2004. You had Ronnie Snowden,
4 Stephanie Kennedy, Dee Wardlaw. I think
5 that's it at that time.

6 **Q. 2005?**

7 A. Janet Kelly, I believe, came around
8 that time.

9 **Q. Did the others stay, as far as you
10 can recall?**

11 A. Ronnie Snowden left at some point.

12 **Q. 2006?**

13 A. The same. Lynn Martin was there.

14 **Q. 2007?**

15 A. Now, what was the -- ask me that
16 question one more time, though. That worked
17 in the Home America office is what you're
18 saying, right?

19 **Q. Correct.**

20 A. You did not say worked for Home
21 America?

22 **Q. The office building is what I said.**

23 A. Okay.

24 **Q. Any others?**

25 A. I don't remember any others.

1 **Q. And I assume if I ask you who their
2 employer was, you will tell me it's TBW?**

3 A. It had to be.

4 **Q. Why must it be?**

5 A. Because that's where their DE was
6 assigned to. You can only be assigned to one
7 lender.

8 **Q. Their DE is their direct
9 endorsement?**

10 A. Uh-huh (affirmative). It's assigned
11 through HUD and you can see who it's assigned
12 to through the HUD Website.

13 **Q. What's a full eagle endorsement?**

14 A. It's a full endorsement by HUD to a
15 lender certifying that they are capable of
16 making FHA loans on behalf of HUD insurance
17 qualifications.

18 **Q. Was Home America a direct
19 endorsement lender?**

20 A. No.

21 **Q. Are you aware that they represented
22 that they were?**

23 A. No.

24 **Q. Did you ever have an FHA number,
25 yourself?**

1 A. No.

2 Q. Did you ever have a direct
3 endorsement, a DE?

4 A. No.

5 Q. What is an exclusion list?

6 A. A list not to be able to do business
7 with.

8 Q. And to date, do you know which
9 exclusion lists you appear on?

10 A. Freddie Mac.

11 Q. Any others?

12 A. No.

13 Q. How about Home America? Do you know
14 what exclusion lists it appears on?

15 A. No, I don't know anything about it.
16 I don't look.

17 Q. What's a loan condition?

18 A. I don't understand what you're
19 saying. I guess --

20 Q. You don't know what a loan condition
21 is?

22 A. I don't understand what a loan
23 condition is. Are you speaking like in
24 mortgage terms?

25 Q. Yes.

1 A. So if you're saying a loan has a
2 loan condition -- is that what you're asking
3 me? I guess that's a condition for -- to meet
4 the guidelines to close.

5 Q. **And who tells you what the**
6 **conditions will be?**

7 A. It will be FHA underwriters on the
8 FHA mortgage.

9 Q. **Who did they give the conditions to?**

10 A. Processors.

11 Q. **Then what do the processors do with**
12 **that?**

13 A. They try to meet the conditions.

14 Q. **How would you meet a condition? Can**
15 **you give me an example of a condition.**

16 A. I don't know. An additional pay
17 stub, you know, a more current pay stub. And
18 the processor will call and get a more current
19 pay stub. That would be a condition.

20 Q. **What does refer risk class mean?**

21 A. I don't know. You'll have to be
22 more direct.

23 Q. **I don't know what you mean by**
24 **"direct."**

25 A. I don't know what you -- refer risk

1 class could mean a whole lot of things in a
2 lot of different industries. If you ask me
3 the question the right way, I'll answer it.

4 **Q. We're only going to talk about the**
5 **mortgage industry today unless I tell you**
6 **otherwise. So in that context, what does a**
7 **refer risk class mean?**

8 A. I don't know.

9 **Q. Do you know what the application**
10 **engines are for Freddie Mac loans?**

11 A. Yes.

12 **Q. What?**

13 A. DU and LP.

14 **Q. What does that stand for?**

15 A. Desktop Underwriter and --

16 THE WITNESS: What's the other one?

17 **Q. (By Ms. Bracker) I just need your**
18 **answer right now.**

19 A. I don't know. Desktop Underwriter,
20 and I don't know what that other one is.

21 **Q. And what is --**

22 A. Loan Processor or something like
23 that.

24 **Q. Who enters data into Desktop**
25 **Underwriter?**

1 A. The loan officers.

2 Q. Who enters information into LP?

3 A. Loan officers.

4 Q. So did you enter things when you
5 were a loan officer into DU?

6 A. No.

7 Q. Why not?

8 A. I didn't know how to use the system.

9 Q. Who entered it on your behalf?

10 A. My assistant.

11 Q. The one whose name you don't recall?

12 A. No. The assistant when we started
13 out with The Hicks Team, that's who entered
14 it. Before The Hicks Team, my processor would
15 enter it for me.

16 Q. So the loan officer or his or her
17 assistant is who enters it into DU?

18 A. Yes.

19 Q. Same with LP?

20 A. Right.

21 Q. You never entered anything into LP?

22 A. No, not one time.

23 Q. In your opinion, based on your time
24 in the mortgage industry, who is responsible
25 to make sure that a loan is not fraudulent?

1 A. I think it's a shared responsibility
2 all the way across the industry, from the
3 originator to the underwriter, to the
4 underwriter and the closer.

5 **Q. Who else does that cover besides the**
6 **originator, the underwriter, and the closer?**

7 A. Oh, you want the closing attorney
8 too there. Closing attorney.

9 **Q. And who else?**

10 A. Appraiser.

11 **Q. So what responsibility does the**
12 **originator have?**

13 A. To enter the data that's given to
14 him by the customer.

15 **Q. Any other responsibilities?**

16 A. To collect the data, the referring
17 data that's required for that loan, to turn it
18 in to processing.

19 **Q. Anything else?**

20 A. They're required to get the document
21 signed.

22 **Q. Signed by whom?**

23 A. The borrower.

24 **Q. Anything else?**

25 A. No.

1 **Q. Does an originator have any**
2 **responsibility to question the data given by a**
3 **customer?**

4 A. They have the right to ask them
5 about it, yes, sure.

6 **Q. Do they have any responsibility to**
7 **do so?**

8 A. I'm not sure what the handbook says
9 on that.

10 **Q. How about the underwriter? What are**
11 **the underwriter's duties with respect to**
12 **stopping fraudulent loans?**

13 A. They are to evaluate the documents,
14 match up to the approval that was given by DU
15 or LP, or to manually override and underwrite
16 a loan based on criterias met in the HUD
17 handbook, to make a credit decision on behalf
18 of HUD, to review the appraisal to make sure
19 that the appraisal matches up with the
20 guidelines that the appraisal should match up,
21 to review each and every document to make sure
22 it matches up with what's given, the
23 information given, to make and modify
24 conditions based upon their knowledge of HUD
25 guidelines. That's about it.

1 Q. So they should know that handbook
2 really well, right?

3 A. They should.

4 Q. And you said things like "based on
5 HUD guidelines" several times, but that would
6 go for whoever was -- all loans are not HUD
7 loans, correct?

8 A. No. But this is referring to
9 defrauding the government, so the only
10 government loans here are HUD.

11 Q. Well, that's why I'm trying to be
12 clear with you. I haven't said anything about
13 government loans. I'm just asking you about
14 the mortgage industry.

15 A. Well, I'm answering because this is
16 a suit that I'm defrauding the government.

17 Q. Well, I appreciate that, but I'm
18 still going to direct you answer as to the
19 mortgage industry.

20 So what happens when it's not a
21 government loan? What guidelines do they
22 refer to?

23 A. The guidelines on the loan, investor
24 guidelines.

25 Q. What are some other kinds of loans

1 **besides government loans?**

2 A. Well, the three categories are
3 government, conventional, and nonconventional.

4 **Q. Who would write guidelines for**
5 **conventional loans?**

6 A. Fannie Mae, Freddie Mac, Ginnie Mae,
7 and other certified entities that were
8 certified to sell conventional loans.

9 **Q. And how about nonconventional?**

10 A. Any investor across the country that
11 wishes to purchase mortgages.

12 **Q. Did TBW fulfill that role?**

13 A. As far as what?

14 **Q. Purchasing mortgages.**

15 A. They purchased mortgages, yes.

16 **Q. Did they purchase nonconventional**
17 **mortgages?**

18 A. Yes.

19 **Q. What were their guidelines?**

20 A. Their guideline book was about as
21 big as five of them big law books combined.
22 So each loan program has its own guideline.

23 **Q. What were their programs?**

24 A. Again, probably 500 programs. I
25 don't know.

1 **Q.** So you were telling me about the
2 duties of an underwriter to evaluate the
3 documents and to match conditions to the
4 approval required by DU or LP or manually
5 override them based on criteria in the HUD
6 handbook.

7 Is that -- I can have her read back
8 your word-for-word, but that's what I wrote
9 down.

10 A. Sounds close.

11 **Q.** Sound right?

12 **Tell me about manual override.**

13 A. If a loan got denied by the DU or LP
14 system, the underwriter still could make a
15 credit decision based upon their knowledge of
16 the handbook and endorse it for HUD approval.

17 **Q.** All underwriters could do that?

18 A. Only DE.

19 **Q.** What percentage of Home America
20 loans would you say were government loans?

21 A. I think about 55 percent.

22 **Q.** So who had the responsibility to
23 make sure the underwriters were doing their
24 job?

25 A. Taylor, Bean & Whitaker.

1 **Q. Why is that?**

2 A. Because they work for them.

3 **Q. And who at Taylor, Bean & Whitaker**
4 **was responsible for that?**

5 A. I don't know their bosses, but they
6 had a big chain of them.

7 **Q. Now, they did work in your office**
8 **building, correct?**

9 A. Correct.

10 **Q. And if you had an issue with them,**
11 **who would you call?**

12 A. I'd call Lee Farkas.

13 **Q. Directly you just called Lee Farkas**
14 **if you had an issue with a TBW underwriter?**

15 A. I never had many issues. So it
16 wasn't many calls.

17 **Q. So which calls do you recall making?**

18 A. On underwriters, the call to remove
19 Stephanie Kennedy from the Home America
20 building and the call to remove Allison Paul
21 from the Home America building. That's really
22 all I recall ever having issues with where I
23 had to call.

24 **Q. And both of those were straight to**
25 **Lee Farkas?**

A. Yes.

Q. Tell me the substance of that conversation about Stephanie Kennedy.

A. There was rumors going around everywhere. I was hearing rumors from employees that she was meeting with Brand Bank. She was going to be leaving. They were staying late at night, until 12:00, 1:00, her and Allison Paul. They were shipping out documents by the hundreds and hundreds of pages through the scanning system, but we couldn't see what the actual documents were. And I wanted her transferred out of my office.

Q. What did Mr. Farkas say?

A. He didn't say anything at that time. And then a day or two later, he said he would transfer her out.

Q. So did that conversation happen before or after you first fired Ms. Kennedy?

A. I never fired Ms. Kennedy.

Q. But you're familiar with what she says about it, right?

A. Yeah. I couldn't fire her. She didn't work for me.

(Discussion ensued off the record.)

1 **Q. (By Ms. Bracker) Do you know the**
2 **conversation that she refers to that you have**
3 **a disagreement about?**

4 A. Yes.

5 **Q. Did the call to Lee Farkas come**
6 **before or after that conversation?**

7 A. I don't remember.

8 **Q. Tell me about the conversation from**
9 **your point of view.**

10 A. I told Stephanie Kennedy not to come
11 back into the Home America office, that
12 Taylor, Bean would be contacting her. So I
13 called Lee prior to -- now I remember it --
14 because he said he -- I told her they would be
15 calling her and telling her what her new
16 duties were, her assignments were.

17 **Q. At any point in time, did you tell**
18 **Stephanie Kennedy she was fired?**

19 A. No.

20 **Q. Never?**

21 A. I don't remember saying that.

22 **Q. Can you tell me the difference**
23 **between a VOE and a pay stub?**

24 A. A verification of employment sent to
25 the employer to fill out on an individual's

1 pay, and a pay stub is what you get when you
2 get paid.

3 Q. **Which one is more reliable, do you**
4 **think?**

5 A. In what respect?

6 Q. **In respect to the mortgage industry.**

7 A. I don't know. The guidelines say
8 you can have either one. It depends on the
9 guidelines of the loan.

10 Q. **How about for government loans?**

11 A. The guideline says you can have
12 either one.

13 Q. **The guidelines don't favor one over**
14 **the other?**

15 A. No. Most of the time, it says DU
16 and LP or it says copy of pay stubs or obtain
17 a VOE on almost 90 percent of all government
18 loans that are approved.

19 Q. **So when you see that, do you see**
20 **that on the screen, or does someone give you a**
21 **printout?**

22 A. Comes over on paper.

23 Q. **Comes to you on a printout.**

24 Can you tell me what a drive-by
25 appraisal is.

1 A. It's when you send an appraiser out
2 to drive by a house to make sure it's there or
3 make sure work was done or whatever the case
4 is you're driving by for.

5 **Q. And what's a desk appraisal?**

6 A. Ordering an appraisal on the
7 property. Every home has to have an appraisal
8 done for purpose of a mortgage.

9 **Q. And you said every --**

10 A. Every home.

11 **Q. I think you said every home has to**
12 **have an appraisal done --**

13 A. -- on a mortgage.

14 **Q. On a mortgage. Okay.**

15 **And is there any preference between**
16 **desk appraisals and drive-by appraisals for**
17 **government loans?**

18 A. I don't know the guidelines on that.
19 Most of them require full appraisals, desk
20 appraisals, but not all of them.

21 **Q. Is a full appraisal and a desk**
22 **appraisal the same thing?**

23 A. No. The drive-by is less detailed.
24 They don't enter the property, thus the name
25 drive-by.

1 **Q. That's less detailed than a desk**
2 **appraisal?**

3 A. That's right.

4 **Q. Do they enter the property on a desk**
5 **appraisal?**

6 A. They do.

7 **Q. The appraiser goes to the house and**
8 **goes in and --**

9 A. Well, they did. I don't know if
10 they do now or not, but they did.

11 **Q. Where did the majority of your**
12 **customers come from when you were working at**
13 **The Hicks Team? How did they find you?**

14 A. Referral-based, mostly.

15 **Q. And when someone came in and said, I**
16 **want a loan, who would they meet?**

17 A. Are you saying when they came into
18 the building?

19 **Q. Sure.**

20 A. Just off the street?

21 **Q. Sure.**

22 A. They could have met any loan officer
23 that the receptionist gave them to.

24 **Q. But most of them made appointments?**

25 A. Yeah. When they made -- are you

1 talking about appointments with The Hicks
2 Team?

3 **Q. I guess.**

4 A. Well, I don't know where -- if they
5 made appointments. I don't know. I mean, we
6 did a thousand loans a month. I don't know
7 where they all met.

8 **Q. How about your loans, since you were**
9 **the top producer?**

10 A. My loans?

11 **Q. Were most of them by appointment?**

12 A. Most of them were by appointment.

13 **Q. And did they meet with you when they**
14 **came in?**

15 A. They did, up until about 2004.

16 **Q. What about after that?**

17 A. They met with assistants only.

18 **Q. When you say "assistants," you mean**
19 **the other loan officers?**

20 A. Meaning The Hicks Team.

21 **Q. Okay. Well, when we did the list of**
22 **The Hicks Team, you gave me mostly -- well,**
23 **you gave me all loan officers and said you had**
24 **an assistant who answered the phone, but you**
25 **couldn't remember that person's name.**

1 A. Yeah.

2 Q. Are you talking about someone
3 different than the people you listed?

4 A. No.

5 Q. So you're talking about a loan
6 officer?

7 A. That was still their job. As a loan
8 officer, they took over the loan. I never met
9 with the customer.

10 Q. But you still consider yourself a
11 top producer because they came in on your
12 referral?

13 A. Correct.

14 Q. Who took the majority of your
15 referrals for you?

16 A. They divided it up pretty evenly.

17 Q. Do you know how they divided it?

18 A. I don't remember how they did it.

19 Q. So imagine someone has made an
20 appointment with you, before 2004 and they're
21 sitting down with you personally. What are
22 the steps you go through in that first
23 meeting?

24 A. Fill out the application, which I
25 did by hand.

1 **Q. So you had like a printout? You**
2 **wrote it down?**

3 A. Uh-huh (affirmative).

4 **Q. And then what?**

5 A. Get them to fill out the required
6 documentation to authorize credit pulls and
7 things like that.

8 **Q. What other things?**

9 A. Collect the data from them.

10 **Q. Is that when you would turn people**
11 **away sometimes?**

12 A. Sometimes we turned them away then,
13 couldn't do it. Most of the times they were
14 turned away by DU and LP, especially in the
15 later years.

16 **Q. So give me an example of someone**
17 **that you would just stop the process at that**
18 **point on. Not a name, but what's a situation**
19 **where you might say, I'm sorry, we can't help**
20 **you?**

21 A. Okay. Here's a situation: A DU and
22 LP are run. Loan officer's out there taking
23 the application like we talked about. They
24 entered it into the DU and LP system, which
25 happened to be not my DU and LP system but

1 Taylor Bean's DU and LP system.

2 Q. **Did you have a DU and LP system?**

3 A. I did not have a DU or LP number.

4 Q. **No, that's not my question. I'm**
5 **sorry.**

6 **Did Home America have a DU and LP**
7 **system?**

8 A. We used Taylor Bean's DU and LP
9 system.

10 Q. **So when people were --**

11 A. I think. We might have at the end
12 started using our own DU and LP system, but I
13 don't think so.

14 Q. **So when your assistant entered the**
15 **information on your behalf, you --**

16 A. -- submitted a loan to Taylor Bean
17 at that time that went through their DU and LP
18 system and the results would come back.

19 Q. **So they had access to Taylor Bean's**
20 **system?**

21 A. Uh-huh (affirmative). Everybody
22 across the country that did business, all the
23 small banks, everybody did it the same way.
24 We entered it into their DU and LP system. It
25 gave an approval or denial. If you pull up a

1 DU and LP system, there's going to be three
2 times the number of loans that are actually
3 closed, if that's what you're thinking.

4 **Q. I'm not thinking anything.**

5 A. Well, I'm just saying that when you
6 look on a monthly DU and LP run on the Taylor
7 Bean system that was referred to by Home
8 America, there might be 4,000 DU and LPs run
9 and there might be 800 loans closed. The rest
10 of the loans were denied.

11 If they didn't close within 30 days,
12 Taylor Bean would sent out a notice, since it
13 was applied on their system, saying they were
14 denied. I didn't have to do it.

15 **Q. So let me go back to my question.**

16 **You're talking about the DU and LP system of
17 TBW?**

18 A. Right.

19 **Q. Is that a government program that --
20 you said everybody has it. So I'm getting
21 confused.**

22 A. Yes, it was a widely used tool in
23 the mortgage industry, and it still is, from
24 my understanding, today, that everybody --
25 there were automated approval systems that you

1 entered a system and it would give you
2 approval for FHA. It would give you approval
3 for a conventional. It would not give you
4 approval for -- it would give you approval
5 for, at the end, for even nonconventional
6 loans that some of these entities had started
7 buying.

8 **Q. When you say "the end," you mean --**

9 A. Toward the end of my career there.

10 **Q. I see.**

11 A. It would even approve them.

12 **Q. Did the other loan officers enter
13 their data?**

14 A. They did.

15 **Q. Who checked to make sure they were
16 entering the data correctly?**

17 A. Processors would verify, and then
18 the underwriters had to make sure the data was
19 matched up to the documents that were there.
20 That's their responsibility.

21 **Q. And who was checking your data?**

22 A. Who was checking my data?

23 **Q. Yes.**

24 A. The underwriters checked all the
25 data all the way down. And then we had audits

1 every year.

2 Q. When you had office meetings, did
3 the Taylor Bean employees attend?

4 A. Probably.

5 Q. Why?

6 A. They didn't attend some functions of
7 Taylor Bean, but sometimes when we had office
8 meetings -- and it depends on what you call
9 office meetings. Taylor Bean didn't attend
10 all office meetings. Sometimes it was office
11 meetings for just loan officers. We had
12 meetings every month for training. They
13 didn't attend. If they did attend, they
14 attended on an instructor basis and not on a
15 participant basis.

16 Q. Did you ever hold underwriter
17 meetings?

18 A. I met with underwriters.

19 Q. As a group?

20 A. Yes.

21 Q. Why?

22 A. To find out what was going on, what
23 we needed, where we're lacking, what's
24 happening, where we need to be.

25 Q. Who is "we"?

1 A. Home America Mortgage.

2 Q. When you said you did a thousand
3 loans a month, were those Hicks Team loans or
4 Greg Hicks loans or for the whole company?

5 A. Whole company.

6 Q. So we were talking about all of the
7 roles, who had responsibility to be sure that
8 fraudulent loans didn't happen. And we talked
9 about originators already and underwriters
10 already.

11 Let's talk about closers. What were
12 their jobs that were -- what were their duties
13 and responsibilities to ensure that fraudulent
14 loans weren't put through?

15 A. You know, the closers didn't work
16 for me. So I never really did figure -- you
17 know, after it came out of that, their
18 responsibilities were not -- they were just
19 making sure that the numbers were right and
20 the loans matched up to the loan approvals and
21 that the funds were sent, etcetera, and
22 prepared the closing documents. I don't know
23 how they would be responsible for fraud other
24 than, you know, making sure everything matched
25 up properly.

1 **Q. Who did the closers work for?**

2 A. Taylor, Bean & Whitaker.

3 **Q. So when it came time to close a**
4 **loan, who would be sitting at the table?**

5 A. The buyer, the seller, the attorney.

6 **Q. The closing attorney?**

7 A. Yeah.

8 **Q. As their employer, what were Taylor,**
9 **Bean & Whitaker's obligations with respect to**
10 **making sure their underwriters were doing**
11 **their job?**

12 A. I don't know how that works. That's
13 Taylor Bean's job.

14 **Q. So you had no understanding at all?**

15 A. I don't know what they did. I don't
16 know how they did it.

17 **Q. But I'm asking what their duty was,**
18 **not what did they actually do.**

19 A. Ask me again.

20 **Q. What duty did Taylor, Bean &**
21 **Whitaker have with respect to their employees,**
22 **the underwriters?**

23 A. I don't know what their duty was,
24 Taylor Bean's duty. I wasn't involved with
25 Taylor Bean.

1 **Q. Have you ever employed an**
2 **underwriter?**

3 A. Yes.

4 **Q. Who?**

5 A. No, actually I didn't. We didn't.
6 We used some contract underwriting from United
7 Guaranty.

8 **Q. And when was that?**

9 A. I can't remember. But it was just
10 for loans that we wanted to do outside of
11 Taylor, Bean & Whitaker. And we didn't even
12 have them very long, but let's say '07.

13 **Q. Who is "we"?**

14 A. Home America Mortgage. When I say
15 "we," I refer to Home America Mortgage from
16 now on.

17 **Q. So is it your understanding that**
18 **once the loan package is given to**
19 **underwriting, your job duties and Home**
20 **America's duties were executed, you were done?**

21 A. No.

22 **Q. Tell me what happened after that**
23 **that was still part of your responsibility.**

24 A. If their underwriter put conditions
25 on the loan, we had to go back and see if we

1 could meet the conditions, "we," Home America
2 Mortgage.

3 **Q. Which of the people involved?**

4 A. The processors would do that.

5 Q. And once the conditions had been met
6 and handed over -- another pay stub was the
7 example you gave me, here's another pay
8 stub -- then what additional responsibility
9 did you have?

10 A. That was it, after that point, for
11 me.

12 Q. **How about Home America?**

13 A. Home America as well. I mean, once
14 it met conditions and signed off by the
15 underwriter of Taylor, Bean & Whitaker, they
16 closed it and my responsibility was to get the
17 package back to them.

18 (Plaintiff's Exhibit 1 was marked
19 for identification.)

20 Q. **(By Ms. Bracker) I'm going to mark**
21 **something as Plaintiff's Exhibit 1. Take a**
22 **look at what's been marked as Plaintiff's**
23 **Exhibit 1. Have you seen this document**
24 **before?**

25 A. No.

1 **Q. Do you generally recognize the**
2 **subject matter?**

3 A. I guess -- when was this document --
4 it doesn't have a date on this document.

5 **Q. That's correct.**

6 A. So if this date is after the date I
7 left, this would be a different guideline than
8 the date that I worked off of.

9 **Q. Did you work off a document like**
10 **this?**

11 A. No. This is an underwriter
12 work-off.

13 **Q. This is an underwriter work-off?**

14 A. I believe. I mean, I've never seen
15 this document. So it was never sent to me, or
16 I never reviewed a document that looked like
17 this.

18 Now, it may have came over in a
19 different form at the time that I was there.
20 This doesn't look -- I don't remember this
21 document at the time that I owned Home
22 America.

23 **Q. Do you recall ever receiving any**
24 **sort of guidelines as to what might be a**
25 **warning sign of fraud or a fraudulent loan?**

1 A. From HUD?

2 Q. **From anyone.**

3 A. I don't remember seeing a guideline,
4 what to look for, on fraud.

5 Q. **If I could direct your attention to
6 the fifth bolded -- "Source of Funds Warning
7 Signals." Could you read those out loud,
8 please, what the warning signals are.**

9 A. New bank account; evidence of
10 white-outs, alterations, rounded dollar
11 amounts; illegible signatures with further
12 identification; recent large deposits; unusual
13 down payment source; stocks, bonds; and joint
14 bank accounts.

15 Q. **You kind of skipped a lot of stuff.
16 Let's go back to recent large deposits,
17 "Recent large deposits without acceptable
18 identification."**

19 **Whose job was it to notice if a
20 potential borrower put down on their assets
21 \$50,000, under other assets?**

22 A. That's an underwriter's job to catch
23 that when it's turned in to them. That's
24 their job.

25 Q. **So you had no obligation as the**

1 **originator or loan officer to --**

2 A. We did. And if a processor seen
3 that particular scenario, she could have
4 approached an underwriter and said, look, I've
5 got a large deposit of such and such. What do
6 we do?

7 And the underwriter could either
8 give her a denial on it, say, look, they won't
9 do it, or they'd give them an estimation of
10 how they can justify it.

11 **Q. Well, I understand that they could
12 do that. Were they obliged to do that?**

13 A. I'm sure they did. On a thousand
14 loans a month, there was a lot of interaction
15 between the processors and the underwriters.
16 And I wasn't privy to one of the
17 conversations.

18 **Q. Did you ever do that?**

19 A. No. It's not my job. That's the
20 processor's job, once the data got turned in.

21 **Q. So if a potential borrower is
22 telling you how to fill out the application
23 and you're doing that by hand and they say,
24 put down for other assets, \$50,000, you have
25 no obligation --**

1 A. I'm going to ask for the
2 documentation on the \$50,000.

3 **Q. You are?**

4 A. Yeah.

5 **Q. And if they don't have it, what are**
6 **you going to do?**

7 A. Well, it depends upon the approval
8 of the loan. That we can't approve on Desktop
9 underwriting.

10 **Q. It hasn't gone to Desktop**
11 **underwriting. So what do you do at that**
12 **point?**

13 A. If I met with a customer or anybody
14 met with a customer after, especially, 2002,
15 it had already been to Desktop underwriting
16 before we even met with a customer.

17 **Q. How?**

18 A. Take the application on the phone.

19 **Q. Oh, we didn't talk about that.**

20 A. You didn't ask me.

21 **Q. I did actually. I asked you what --**

22 A. No. You said what were the
23 processes --

24 **Q. Mr. Hicks, you're talking over me**
25 **again, sir. I want you to stop.**

1 **My question is, and I'll go back to**
2 **it, whether you had initial meetings in**
3 **person, did they come in off the street, were**
4 **they phone referrals. We established that**
5 **most of yours were appointments and that prior**
6 **to 2004 you did them mostly yourself, that the**
7 **first step in that interview was to sit down**
8 **and take their information from the**
9 **application by hand?**

10 A. Correct.

11 Q. **In that instance, it hasn't been**
12 **through Desktop Underwriter.**

13 A. No, you're right. You're right, up
14 until about -- until when I stopped doing it.
15 From 2004 to 2009, they had already been --
16 everybody had already been in the system prior
17 to. So that's a two-part answer, then.

18 Q. **Well, I'm focusing on '04 when you**
19 **were the one doing it --**

20 A. Right.

21 Q. **-- and you were taking your**
22 **information by hand, so that it could be put**
23 **into Desktop Underwriter.**

24 **If someone told you, I have \$50,000**
25 **in other assets, did you have any duty to**

1 **investigate that?**

2 A. I'm going to have to stop and I'll
3 have to readjust that again because in '04,
4 all my stuff did come in by phone. When I had
5 an appointment, I met with them, and it was
6 already filled out.

7 But prior to me having assistants, I
8 met with them. I had to meet with them. And
9 I think that probably goes back to all the way
10 to 2002, before I actually did pencil
11 handwriting deals.

12 **Q. So going back to 2002, same**
13 **question.**

14 A. Okay. Now, what's the question
15 again for 2002?

16 **Q. Someone tells you, I have \$50,000 in**
17 **other assets. What's your duty?**

18 A. To ask for the source of funds.

19 **Q. And if they don't have any?**

20 A. It's up to the underwriter.

21 **Q. So you don't have any duty, then?**
22 **You put it through?**

23 A. I don't know. I don't know what
24 loan you're talking about.

25 **Q. I'm not talking about any particular**

1 **loan. I'm asking you, if that situation**
2 **presented itself, did you or did you not have**
3 **a duty?**

4 A. I don't remember that situation ever
5 presenting itself with a \$50,000 nontraceable
6 deposit.

7 Q. Well, presumably you have some
8 understanding of what your duty would be or
9 otherwise you ought not be sitting there
10 taking the application?

11 A. Right.

12 Q. So what was your duty, if any?

13 A. My duty is to match up the documents
14 that the customer told me they had.

15 Q. And if he didn't have any, what was
16 your duty?

17 A. I turned them down. We couldn't do
18 the loan.

19 Q. Under "Recent large deposits without
20 acceptable identification," it says, "Unusual
21 down payment source (i.e., sale of personal
22 property, rent credit, repayment of personal
23 loan, etcetera)."

24 A. Correct.

25 Q. When someone says that their down

1 payment source would be a gift, would that
2 fall under an unusual down payment source?

3 A. Well, you know, we're working --
4 again, what year is this document? When does
5 this document -- if this is a 2002 document,
6 then I would have to answer that question as a
7 2002 document. You asked me if I've ever seen
8 this. I said no.

9 When did this come out? You handed
10 me something blank.

11 Q. I'm asking you a question that is
12 not based on when this document came out. I'm
13 asking you whether you would consider, based
14 on your years in the mortgage industry, a gift
15 for a down payment to be an unusual down
16 payment source.

17 A. No.

18 Q. Thank you.

19 If you'll look at the last section
20 of this document, it says, "Owner-Occupancy
21 Warning Signals." The first one is
22 "Employment is not within reasonable distance
23 of property." Then the last one is "Buyer
24 purchasing a principal residence but owns
25 rental properties nearby."

1 Did you ever see those situations?

2 A. I don't remember.

3 Q. Do you agree that if someone was
4 purchasing a property that wasn't within a
5 reasonable distance of their employment, that
6 that would be a warning signal?

7 A. It could be a warning signal
8 explained with an explanation.

9 Q. I don't understand.

10 A. Yeah, they could be buying a house
11 40 miles away and planning on getting
12 transferred within their company.

13 Q. And what duty did you have if
14 someone told you that?

15 A. I didn't have a duty. I put it
16 down, documented that they're moving. The
17 underwriter would look at it, know it was 40
18 miles away. They would condition for it.
19 They would say, why is this person moving 40
20 miles away? And then the borrower would give
21 their definition of why. And if it was
22 suitable for the underwriter, it would close.

23 Q. So what duty did you have?

24 A. It says "warning signs," not --

25 Q. I'm sorry?

1 A. This says "warning signs."

2 Q. Sure. I understand that. I'm
3 asking if it would have raised a red flag for
4 you.

5 A. Yes, it would have raised a red
6 flag.

7 Q. And what would you have done?

8 A. I would have asked for a
9 verification of why.

10 Q. And what would you have thought
11 would be acceptable?

12 A. My acceptance -- my thinking of
13 acceptance didn't matter. It was what HUD
14 thought.

15 Q. Well, you would be the one passing
16 it along. What would you be willing to pass
17 along?

18 A. Whatever they gave me that says why
19 they were moving.

20 Q. So you didn't have any duty to
21 evaluate what they were giving you? You just
22 passed it along?

23 A. I passed it along to the underwriter
24 and let them make a decision if it made sense
25 or not.

1 **Q. During the time period where you**
2 **were just taking meetings with people who had**
3 **already filled out applications over the**
4 **telephone, what happened in their meeting with**
5 **you?**

6 A. That was only for a short period.

7 **Q. I thought it was from 2002 to 2009?**

8 A. No. I didn't meet with a customer
9 after --

10 **Q. I think you said 2004 before.**

11 A. Yeah, probably 2004, 2005. I didn't
12 meet with a customer again face to face.

13 **Q. So from 2002 to 2004 or '5?**

14 A. Right. I would take the
15 application. It was faster because they had
16 already filled it out. I would get them to
17 sign the documents that were required. I
18 would get them to sign their application, and
19 I would collect the documents that were
20 required for the loan. And I would explain
21 the loan terms to the individual with the
22 payment amounts.

23 **Q. How often in that period did you**
24 **turn people away at that stage?**

25 A. Not much, because most of the time,

1 they were all ran through DU and LP and they
2 were DU and LP approved.

3 **Q. How about in the time before that**
4 **when DU and LP had not been run?**

5 A. A lot.

6 **Q. About what percentage, would you**
7 **say?**

8 A. Well, I never did it right then.

9 **Q. Never did what?**

10 A. I never turned them away right there
11 at that moment. It was easier for me to call
12 them the next day.

13 So the percentage? I don't know.
14 30, 40 percent.

15 Also now, it was not my decision or
16 my responsibility to make a credit decision on
17 them loans when I met with the people. So
18 before I actually denied them, I would
19 actually put that loan into the system, no
20 matter how bad it was or how good it was, and
21 ask for a DU or LP approval.

22 DU and LP would approve things a lot
23 of times that I had no idea that they would
24 approve, that if I would have turned them
25 away, I would have missed the loan. Somebody

1 else could have just did it. They had a high,
2 you know, back ratio of 50, or they had, you
3 know, not enough money or their credit score
4 was below minimum what you would think that
5 the system would approve, but sometimes it
6 would still approve it.

7 **Q. What's a high back ratio of 50?**

8 **What does that mean?**

9 A. You take all your -- they have
10 guidelines of loan amounts for income-to-debt
11 ratios. And manuals on that had a certain
12 amount on the back, which meant you took all
13 their debt, plus their new home, divide it by
14 their monthly income, and you come up to a
15 percentage. That percentage could only be
16 such and such on a manual. But on a Desktop,
17 it could exceed it if it wanted to. It was up
18 to the system, not up to me.

19 **Q. So if I understand you correctly,
20 you didn't perform any screening, then? You
21 just put it into the system?**

22 A. I put it into the system, yes. I
23 screened it, you know. I know I had to
24 have -- I know if they told me they made
25 \$2,000 a month, their pay stubs had to match

1 \$2,000 a month on them. I know if they said
2 they got \$4,000 in the bank, the bank account
3 has got to show \$4,000. I screened it, but I
4 put it in the system and let the system make
5 the approval.

6 MS. BRACKER: It's 12:30. So let's
7 take a lunch break.

8 (Whereupon a recess was taken from
9 12:30 p.m. to 1:38 p.m.)

10 Q. **(By Ms. Bracker)** I talked to you
11 earlier, Mr. Hicks, about when Dennis Moseley
12 started as president, and you said he was put
13 into that position to alleviate from you some
14 of the duties that you had on a daily basis?

15 A. Yes.

16 Q. **What duties were delegated to**
17 **Mr. Moseley at that time?**

18 A. Dealing with loan officers'
19 questions, reviewing any investor docs prior
20 to me. He was the overall boss if I was out
21 of the office of everybody.

22 Q. **Did you continue to work the 15- to**
23 **20-hour days you were working seven days a**
24 **week before that?**

25 A. No. I dropped way down to like 12.

1 **Q. 12 hours?**

2 A. Probably so.

3 **Q. Still seven days a week?**

4 A. No, probably -- it depends upon what
5 year you're talking, but it went TO less and
6 less as the years went on.

7 **Q. What were you doing instead of being
8 in the office?**

9 A. Well, there was always meetings.
10 There was always review meetings. There was
11 always conferences. There was always
12 promotionals for Home America. There was
13 meeting with accountants, everything else that
14 a CEO has to do as the company grows and
15 becomes -- I was getting over 300 phone calls
16 a day, and then Dennis started receiving 300
17 phone calls a day probably.

18 **Q. You know those Hicks Team signs I
19 was referring to? You know what I'm talking
20 about, right?**

21 A. Yes.

22 **Q. Who paid for those?**

23 A. Home America probably.

24 **Q. How did people get to be on The
25 Hicks Team?**

1 A. I asked them.

2 Q. **How did you choose who to ask?**

3 A. They had to have a great
4 understanding of the mortgage business. So
5 after somebody had been there a while -- not
6 necessarily been there a while. I took some
7 people and started them fresh from the
8 beginning. But I don't know. It's a personal
9 choice. Not everybody would want to be on The
10 Hicks Team. They could make a lot more money
11 outside of it.

12 Q. **How is that?**

13 A. They could be on full commission.

14 Q. **So you did have people on full
15 commission?**

16 A. Where?

17 Q. **I'm asking who you were talking
18 about.**

19 A. Yeah, if you wasn't on The Hicks
20 Team and you was a loan officer, you was on
21 full commission.

22 Q. **And what was that arrangement? Was
23 it 100 percent or --**

24 A. Every one of them was different.

25 Q. **What was the lowest percentage that**

1 **you can recall?**

2 A. I don't remember. 40 percent
3 probably.

4 **Q. 40 percent to the person?**

5 A. Uh-huh (affirmative).

6 **Q. So why do you think people did join
7 The Hicks Team?**

8 A. Stable money.

9 **Q. The salary part was the stable
10 money?**

11 A. Uh-huh (affirmative). Job security,
12 got a paycheck every week.

13 **Q. Who hired people into The Hicks
14 Team?**

15 A. You just asked me that.

16 **Q. I don't think I did. If I did, I
17 didn't understand it that way.**

18 A. I did.

19 **Q. That's what you answered --**

20 A. I hired people into The Hicks Team.

21 **Q. Okay. I understood that people
22 moved over to The Hicks Team that you selected
23 and you also did all the hiring.**

24 **Did anybody else consult with you on
25 those decisions?**

1 A. I might have consulted with the team
2 at that particular time, whoever was on the
3 team, if they thought that person was a good
4 fit.

5 Q. When you were explaining that
6 assistants entered data into DU and LP on your
7 behalf, did you check what they entered?

8 A. No.

9 Q. Then how do you know it was
10 accurate?

11 A. Because they entered it and became
12 responsible for it.

13 Q. So even though they were entering it
14 on your behalf, you did not have
15 responsibility for it?

16 A. I did as the company owner, like any
17 loan officer would under me.

18 Q. That sounds like two different
19 things, like --

20 A. No, because they started signing it.

21 Q. You have to wait on me. I'm sorry.
22 But I want to make sure we're on the same
23 page. I don't want to torture her any more
24 than we have to.

25 So I thought you said like any loan

1 **officer and like the owner of the company,**
2 **which seemed to me to be two very different**
3 **things. So can you explain that.**

4 A. They were still employees of mine
5 under Home America either way, whether you
6 were a loan officer on The Hicks Team or off
7 The Hicks Team.

8 Q. **And you were responsible for what**
9 **they entered?**

10 A. Only as the company standard, not
11 personally responsible. I couldn't look at
12 every -- a thousand files a month.

13 Q. **So what did you do to make sure that**
14 **people were entering things accurately?**

15 A. They went through the same process
16 of verification that any loan would go
17 through.

18 Q. **What is that process?**

19 A. Processing, underwriting, closing.

20 Q. **So in other words, if someone**
21 **entered an inaccuracy at the beginning, it**
22 **would be caught by processing or underwriting?**

23 A. Mistakes happen in the world. I
24 don't know. But theoretically, yes, it's
25 supposed to be caught.

1 **Q. Did you do anything else as the**
2 **company owner to make sure that things were**
3 **being entered accurately?**

4 A. No. You have to rely on the people
5 that you got that's in place to do that for
6 you.

7 **Q. So you didn't give them any kind of**
8 **direction on how to check it?**

9 A. Sure. They knew how to -- there was
10 copies of the DU and LP findings and each
11 finding they could go by, what they had to
12 check, what they didn't have to check. There
13 was -- they had to understand the guidelines
14 as well.

15 **Q. Did you do training on the**
16 **guidelines?**

17 A. Absolutely. There was three
18 training classes a month.

19 **Q. Who conducted those?**

20 A. Loan officer supervisors.

21 **Q. Who was that?**

22 A. There was -- Becky Wright moved over
23 to being a loan officer supervisor;
24 Joanne Patterson; Sandy Flack.

25 **Q. Anyone else?**

1 A. Dennis Moseley was a loan officer
2 supervisor.

3 Q. So did Becky Wright conduct training
4 from time to time?

5 A. She did.

6 Q. Did Joanne Patterson conduct
7 training from time to time?

8 A. She did.

9 Q. Did Sandy Flack conduct training
10 from time to time?

11 A. As much as I can remember.

12 Q. Did Mr. Moseley conduct training
13 from time to time?

14 A. He participated in training events,
15 yes.

16 Q. That's a different question. Did he
17 conduct the training?

18 A. I don't know if he conducted one or
19 not.

20 Q. Did Stephanie Kennedy ever conduct
21 training?

22 A. I don't know if she did or not.

23 Q. Would it have been appropriate for
24 her to conduct training?

25 A. I would think so.

1 **Q. Why is that?**

2 A. Well, she was a head underwriter.

3 Who better to train people on what to look
4 for?

5 Taylor Bean conducted a lot of
6 training classes as well.

7 **Q. At your office?**

8 A. They sent people to my office, yeah.

9 **Q. Who did they send to your office?**

10 A. I can't remember. They sent
11 different people out, came to different
12 events, different speakers at different
13 events. So did the mortgage investment -- the
14 PMI companies. So did other mortgage
15 companies, would send trainers. So would the
16 insurance companies send trainers. There was
17 a lot of guest speakers and things that came
18 to the training classes.

19 **Q. Were they set training classes every
20 month?**

21 A. There was a training schedule that
22 came up monthly.

23 **Q. How many of those were you required
24 to attend if you were a Home America employee?**

25 A. The way it read, they were required

1 to attend them all.

2 Q. Did they attend them all?

3 A. I doubt it. The majority did,
4 though.

5 Q. Did you attend the training
6 sessions?

7 A. Sometimes, but not maybe for the
8 whole thing.

9 Q. Was an attendance taken?

10 A. Yes.

11 Q. Who reviewed that? Who reviewed the
12 attendance?

13 A. The loan officer supervisors.

14 Q. We also talked before the break
15 about a situation where gift funds might
16 provide a down payment?

17 A. Yes.

18 Q. What would you match that to in the
19 file? You said you would match these things
20 to something in a file, like a pay stub to a
21 pay stub. What --

22 A. I would match it to whatever the
23 underwriter wanted to verify the gift funds
24 transaction.

25 Q. So you wouldn't ask for anything

1 **initially? You would wait for underwriting to**
2 **come back?**

3 A. I wouldn't ask for nothing because I
4 didn't have personal contacts on the files.

5 So when you say I --

6 **Q. Thank you for the clarification.**

7 **What would Home America ask for?**

8 A. Home America would ask for what the
9 underwriter required as proof.

10 **Q. So nothing until --**

11 A. Most of the time the processors
12 understand their job. They knew what they
13 were going to have to get. It doesn't mean
14 they got it every time, but they knew what
15 they were supposed to have gotten, and they
16 would get whatever documents they thought that
17 was going to be required.

18 Now, if that was a document that the
19 underwriter required, that was one thing.
20 Maybe the underwriter required more, whatever.

21 **Q. So what would you expect them to**
22 **anticipate needing for a gift fund?**

23 A. You would have to have -- I would
24 anticipate a letter of a gift.

25 **Q. What does that look like?**

1 A. From a person to the person of how
2 much. And then for a period of time up to a
3 certain date, all you would have to do is show
4 the funds in their account.

5 Then after that, you would have to
6 verify the last couple years -- at Home
7 America, you had to verify that the giver had
8 the funds to give. But that was not a
9 requirement the whole time.

10 Q. **The office building where Home**
11 **America did business, when you came in the**
12 **front door, was there a reception area?**

13 A. There was.

14 Q. **Who sat at the reception area?**

15 A. Chris Holmes was the last one.

16 Q. **Do you remember any of the others?**

17 A. Sylvia Oritone. I don't know how to
18 spell that, I'm sorry. She was a
19 receptionist. And sometimes on lunch breaks,
20 they took turns swapping out.

21 Q. **Was the reception closed off from**
22 **the rest of the offices, or was it all open**
23 **from there?**

24 A. It was closed.

25 Q. **So you had to go through another**

1 **door to see --**

2 A. Not a door. A corridor.

3 Q. **So no door, but you couldn't see**
4 **because there was a corridor in the way?**

5 A. Correct.

6 Q. **So when you proceed down the**
7 **corridor, what would you see when you came**
8 **into the next area?**

9 A. Left or right?

10 Q. **We'll start with left.**

11 A. A long hallway of offices.

12 Q. **And then to the right?**

13 A. You would walk into an open pit area
14 of cubes.

15 Q. **Is there any --**

16 A. Around the pit area of cubes was
17 offices.

18 Q. **Where was your office?**

19 A. To the left at the end, opposite
20 side of that.

21 Q. **Was that where most of The Hicks**
22 **Team was located?**

23 A. They were not in the same offices as
24 me. They were in the office next door.

25 Q. **But still down the corridor to the**

1 **left?**

2 A. Uh-huh (affirmative).

3 Q. **Did borrowers ever go back into the**
4 **office areas for meetings?**

5 A. To the left corridor on the long
6 hallway, there was two conference rooms.
7 Throughout the rest of the building -- you
8 only asked me about left and right -- behind
9 there was a lot of offices that the individual
10 loan officers had. If they took borrowers to
11 their office, that was their preference.

12 Q. **I'm just asking whether they did.**

13 A. I'm assuming they did.

14 Q. **You don't know?**

15 A. Sometimes. It was probably easier
16 most of the time to use a conference room
17 because there's usually two loan officers per
18 office.

19 Q. **Did you interview Stephanie Kennedy**
20 **before she was hired?**

21 A. Yes. I didn't interview her. I
22 spoke with her, got her history and her
23 qualifications, and forwarded them to Taylor,
24 Bean & Whitaker, Sherry Dickerson.

25 Q. **Sherry Dickerson at Taylor, Bean &**

1 **Whitaker?**

2 A. Yes.

3 **Q. What was her job?**

4 A. President. She oversaw all the
5 underwriters.

6 **Q. Did you make a recommendation as to
7 whether Stephanie Kennedy should be hired?**

8 A. They told me to find another DE
9 underwriter in their area, to help them find
10 another DE underwriter in their area. Taylor
11 Bean was located in Marietta. So finding a DE
12 for me in Grayson, Georgia, was not going to
13 be easy for them, to work out of my office.

14 **Q. So do you mean to find a DE in your
15 area?**

16 A. That lived in my area that would be
17 willing to go to work for Taylor Bean.

18 **Q. So from the beginning, you
19 understood she would work in your office?**

20 A. Yes.

21 **Q. Did you make a recommendation about
22 hiring her?**

23 A. Well, I said this woman had applied
24 and this is the qualifications and she seemed
25 to be getting -- would be getting along good

1 with our company. So I guess that's a
2 recommendation.

3 **Q. What would you say her strengths
4 were?**

5 A. She put in a lot of hours. She got
6 along with people really good for the first
7 three-fourths of her career.

8 **Q. People in the office, you mean?**

9 A. She had a good knowledge of,
10 understanding of FHA loans, as well did all
11 the other DE underwriters that were in that
12 office.

13 **Q. So if she told you a loan shouldn't
14 close, what would you do?**

15 A. Well, just to answer that question
16 real quick, I cannot close a loan unless a DE
17 underwriter signed it.

18 **Q. That's not my question.**

19 MS. BRACKER: Could you read back my
20 question.

21 (The record was read by the
22 reporter.)

23 A. And my answer is I cannot close a
24 loan unless a DE underwriter signed it.

25 **Q. (By Ms. Bracker) I don't understand**

1 **how you think that's responsive.**

2 **My question is: If your underwriter**
3 **in the building, the DE underwriter, said this**
4 **loan can't close, what would you do, if you**
5 **were the originator of that loan? What would**
6 **your next step be?**

7 A. And my response to that is if the DE
8 underwriter in the office said this loan
9 cannot close, Home America did not have the
10 ability to close the loan, period.

11 **Q. I understand that. So what would**
12 **you do?**

13 A. I wouldn't close the loan, I guess,
14 or try to get another opinion.

15 **Q. Who might you ask for another**
16 **opinion?**

17 A. Another DE underwriter for a second
18 look.

19 **Q. Who were the other DE underwriters**
20 **you might ask for a second look?**

21 A. The DE underwriters that I named
22 earlier that was in our office, as well as
23 submit it to the head underwriter at Taylor,
24 Bean & Whitaker in Marietta.

25 **Q. Which was who?**

1 A. For a long time it was
2 Sherry Dickerson. And then it became -- it
3 became somebody else. I can't remember her
4 name.

5 **Q. Did you know Stephanie Kennedy's FHA**
6 **number?**

7 A. No.

8 **Q. Did you purchase the Home America**
9 **business cards that Stephanie Kennedy had?**

10 A. No, I didn't purchase -- all
11 business cards was on an automatic form in
12 which any employee could go and just purchase
13 what they needed. So if a loan officer
14 wanted -- we bought all of them their first
15 set. If they bought more than that, they had
16 to pay for them. But any employee could go on
17 the line, on our supply line and order
18 anything they wanted.

19 **Q. Even employees of TBW?**

20 A. Well, if they went on there and did
21 it, the system wouldn't distinguish it.

22 **Q. Why not?**

23 A. It didn't have that capability. It
24 wasn't that type of system. It was very
25 small.

1 **Q. Why do you think Stephanie Kennedy**
2 **would print out Home America business cards?**

3 A. I don't know. I got one that says
4 I'm the greatest lover, but I'm sure there's
5 two or three better than me out there.

6 **Q. I don't understand --**

7 A. Do you understand what I'm saying?

8 **Q. -- how that's responsive. No, sir,**
9 **I don't.**

10 A. It's real simple. I can put
11 anything I want on a business card, but what
12 does that mean?

13 **Q. I'm not asking you that at all. I'm**
14 **asking you if you have any -- I can come up**
15 **with reasons why you might have a world's**
16 **greatest lover business card, although I don't**
17 **care to speculate.**

18 **Why do you think she would like to**
19 **have a business card with Home America on it?**

20 A. Ask her. I don't know. That's
21 speculation.

22 **Q. Are you objecting on speculation**
23 **now?**

24 A. Yeah.

25 **Q. All right. You have no idea why she**

1 **would do that.**

2 **Did you ever see her hand out those**
3 **cards?**

4 A. No.

5 **Q. Were you aware she had them?**

6 A. No. What did the business cards
7 say?

8 **Q. I'm sorry?**

9 A. What did the business cards say?

10 **Q. I don't have a sample for you. I'm**
11 **sorry. You've never seen them before?**

12 A. I don't know what card she had.

13 **Q. Did you ever promote**
14 **Stephanie Kennedy?**

15 A. I talked about what would happen in
16 the future.

17 **Q. What did you talk about?**

18 A. Stephanie Kennedy was talking about
19 leaving Taylor Bean and going somewhere else
20 and leaving the Home America office. I didn't
21 want her to do that. So this was after Dennis
22 had been promoted to president, which raised a
23 real feather, I guess, in her cap.

24 And I had a talk with her before she
25 turned her resignation notice in to Taylor

1 Bean, that if we became a full eagle lender
2 and if we started the process of becoming a
3 full eagle lender, she could swap over to the
4 Home America pay side and she would become
5 vice president.

6 But at that time I was incapable of
7 moving her over to Home America Mortgage from
8 Taylor Bean due to the fact that she was
9 underwriting and the DE number is only good at
10 one company.

11 **Q. Could it have been associated with
12 Home America?**

13 A. Excuse me?

14 **Q. I understand that the DE number is
15 only good at one company.**

16 A. No, it could not.

17 **Q. And you could not have it associated
18 with your company?**

19 A. I could not.

20 **Q. Why is that?**

21 A. That's a full eagle lender. I don't
22 have a full eagle lender license at Home
23 America.

24 **Q. When you said Mr. Moseley became
25 president and that was a real feather in her**

1 **cap, you mean it bothered her?**

2 A. It appeared to me because that's
3 when she decided she was going to leave and go
4 to some other company to work.

5 **Q. You mean it bothered her. Okay.**

6 A. Speculation, though.

7 **Q. Feather in her cap usually means
8 something different to me, and I wanted to
9 make sure I understood what you meant.**

10 **When you had that discussion with
11 her, had you started the process of becoming a
12 full eagle lender?**

13 A. I talked to her about it. You had
14 to have a full -- you had to have a certified
15 DE underwriter that would do that. So we got
16 the paperwork to start. And once you start
17 the process, you cannot go back. The process
18 never got started. So we never got to that
19 stage of even attempting to become one. No
20 paperwork got turned in.

21 **Q. Why was it not started?**

22 A. Well, to become a full eagle lender
23 is a very complicated situation, especially on
24 the size of Home America. Every loan that you
25 do under FHA, under your eagle requirements as

1 you're becoming an eagle lender, requires you
2 to underwrite the loan of the DE that you have
3 in-house and send that loan for review to HUD.
4 You had to do a number of test cases, they
5 call them.

6 Well, HUD could sit on that loan for
7 two weeks. And when you're closing, we just
8 established, you know, let's say 800 to 1,000
9 loans a month and you've got to send every one
10 of them to HUD for at least the first 50, it
11 will shut your whole company down. So making
12 that transition to that was never a feasible
13 thing to do. We wanted to. We wanted to do
14 it.

15 But the process that goes along with
16 it -- the only other way to do it would be to
17 start another mortgage company, like I told my
18 lawyer, and then get a full eagle off of the
19 company and then merge that company into it.
20 And we never even went down that road either.
21 You just could not -- with the amount of loans
22 coming through, if I took all these loans and
23 we underwrote them and then they had to go to
24 HUD to get reviewed and re-underwrote, and
25 you're talking hundreds, and they take 14 days

1 to underwrite a loan, I backed them up by four
2 months and I got 30-day closings. Okay?

3 And I could not -- once you start
4 that process, you couldn't say, we're going to
5 send you this loan to review, but we're going
6 to do this loan with Taylor Bean. That's not
7 allowed. Once you start down that loan as a
8 full eagle, that's. It, every loan has got to
9 go through the process.

10 Q. **What did you mean when you said "the**
11 **first 50"?**

12 A. I think they required the first 50
13 FHA loans, under the requirement, to be
14 reviewed. And then if you have any issues,
15 the review process could go on longer. But
16 the first 50 would have backed up the next
17 800.

18 The requirements of becoming that
19 were almost -- at that point in time, with a
20 company that had grown to that level, it was
21 almost impossible unless they would make
22 exceptions to it, and they wouldn't.

23 Q. **When did you realize how onerous the**
24 **process was going to be?**

25 A. Well, I didn't realize how difficult

1 it was going to be because I thought, well,
2 we'll just send them the first 50 loans real
3 quick and then we'd close the rest with Taylor
4 Bean. But after we got into investigating it
5 and got into talking, and I sat on the phone
6 for hours with HUD, I could not close another
7 loan outside of Home America once I started
8 down that full eagle process, which meant I
9 was at the mercy of HUD to close every loan
10 under their review process, which, hey, may
11 have went really smooth, okay, but if it
12 didn't, it could have ruined the whole
13 business in one month.

14 **Q. When did you figure that out? After**
15 **the conversation with Stephanie Kennedy about**
16 **maybe her becoming a vice president?**

17 A. Yeah. That's why we never started
18 it.

19 Q. **So she never was a vice president?**

20 A. She couldn't have been a vice
21 president of the company, working for Taylor
22 Bean.

23 Q. **Did you have a further conversation**
24 **with her once you realized it wasn't ever**
25 **going to be possible?**

1 A. No. The time period between that
2 conversation and the time period that she sent
3 her resignation letter in is pretty minimal.
4 It's not that long of a time period.

5 Q. **We talked about the different jobs**
6 **earlier.** **We talked about originators, loan**
7 **officers, processors, underwriters, closers.**
8 **But we didn't talk about closing attorneys.**

9 **What's the duty of a closing**
10 **attorney?**

11 A. I don't know. I'm not a closing
12 attorney. I'm not sure what their
13 requirements are.

14 Q. **Were you ever a processor?**

15 A. No.

16 Q. **Were you ever an underwriter?**

17 A. No.

18 Q. **Well, you talked extensively about**
19 **what they do. So I'd like you to --**

20 A. I understand that, but the processor
21 worked for me. So I had to understand her
22 job.

23 Q. **But an underwriter didn't work for**
24 **you, did they?**

25 A. They did not.

1 **Q. You talked the most about the**
2 **underwriter.**

3 A. I talked about what they had to do
4 because I understood what they had to do to
5 get our loans cleared. What goes into it, to
6 the actual closing attorney, all I know is
7 they do a title search and they verify the
8 funds and they transfer it and everybody
9 signs. That's all I know. Any other duty
10 than that, I don't know if they have other
11 duties than that.

12 **Q. Okay. Well, that's more than none,**
13 **so let me go back through those with you**
14 **because I didn't get them all down.**

15 **You said they do a title search.**
16 **And then what were the other two things you**
17 **said?**

18 A. Transfer the funds, get the
19 paperwork signed.

20 **Q. You mean at the closing table?**

21 A. Yeah.

22 **Q. Who worked as closing attorneys on**
23 **Home America loans?**

24 A. The Home America loan approval list
25 for attorneys, there was probably 500 approved

1 attorneys.

2 **Q. Why did you have an approved**
3 **attorney list?**

4 A. It's required by Taylor Bean. It
5 wasn't my approved attorney list. It was
6 Taylor Bean's approved attorneys list.

7 Good point. Thanks for --

8 **Q. So who did Home America use for**
9 **closing attorneys, then?**

10 A. Probably 200, really.

11 **Q. So nobody more often than others?**

12 A. No. 1 was probably Jackson Hardwick.
13 Morris, Manning & Martin. Then Carl Wright
14 did a lot. And then it goes on down the list.

15 Like I said, there's at least 200
16 people that have closed loans for Home America
17 under Home America's originated loans for
18 Taylor, Bean actually.

19 You know, the closing attorney -- I
20 do understand this: The closing attorney
21 works for the lender at the table.

22 **Q. Where do you get that understanding?**

23 A. Because any closing I've ever been
24 to, he says, I represent the lender.

25 **Q. Are you talking about closings**

1 **you've been to for your personal closings?**

2 A. Or closings I went to when I was a
3 loan officer over the various years.

4 Q. Now, I went through who was at the
5 closing table, and you didn't say anything
6 about loan officers.

7 A. They don't have to be there.

8 Q. **Are loan officers frequently there?**

9 A. If they wish to go, they can go.

10 Q. **Not my question. Are they**
11 **frequently there?**

12 A. Frequently? I don't know.

13 Q. **You left them off the first time.**
14 **So I'm trying to figure out why.**

15 A. Well, I left off real estate people
16 too, but they're not required to be there
17 either. The only people that's required to be
18 there are the buyer, the seller, and the
19 closer -- I mean, and the attorney.

20 Q. **But I didn't ask who is required to**
21 **be there. I asked who was typically there.**

22 A. I don't know who's typically there.
23 It depends upon the closing.

24 I can tell you this: I didn't
25 attend any of my closings for the last years,

1 nor did a representative of mine, for years,
2 under The Hicks Team.

3 **Q. Or Home America?**

4 A. I don't know about Home America. I
5 don't know what the other loan officers did on
6 their business.

7 **Q. I thought they reported to you?**

8 A. They did. But they don't report
9 where they are all day long. One of them
10 might think it's important to go to a closing.
11 One of them might not think it's important to
12 go to a closing. But none of them under Home
13 America requirements are required to go to a
14 closing.

15 **Q. Who is responsible for deciding
16 whether or not to accept a borrower's
17 application for a loan?**

18 A. Every borrower application for a
19 loan has to be accepted into the system. Now,
20 it doesn't have to be approved. It has to
21 be accepted by federal law, because that's
22 discrimination.

23 **Q. So who accepts it?**

24 A. The loan officer that took it.

25 **Q. And who is responsible for**

1 **accurately entering the application**
2 **information into the application engine?**

3 A. The loan officer or the person
4 that's taking the application.

5 Q. And I'm sorry. What are the names
6 of the people who entered them for you?

7 A. Justin Price, Misty Chripholous,
8 Becky Wright, Lindsey Metzger. That's the
9 last ones.

10 Q. Who is responsible for making sure
11 that the information is collected that is
12 required by the application engines?

13 A. The person that took the loan
14 application.

15 Q. The loan officer?

16 A. Yep. If that's the person that took
17 the loan application, it is.

18 Q. Who else might take a loan
19 application?

20 A. That's it. That would be the loan
21 officer because that would be the position.
22 But a processor might have the ability to
23 originate a loan themselves, which they did
24 not frequently do. But we gave them the
25 ability, if they had a family member getting a

1 loan, that they could do that. But they
2 couldn't process the particular loan.

3 We also had where accountants and
4 all these other salary people could refer a
5 loan in, but most of the time they didn't take
6 it. They gave it to a loan officer to take
7 for them.

8 **Q. So once a DE underwriter has signed
9 off on a loan and it's ready to be put into
10 closing, there's a package of information that
11 exists, correct?**

12 A. I would guess so, yes. Yes.

13 **Q. I don't want you to guess. If I'm
14 saying it wrong, I want you to correct me. So
15 what --**

16 A. There's a loan package, yes.

17 **Q. What happens to that package next?**

18 A. That package is copied and shipped
19 to the investor. The originals are shipped to
20 the investor.

21 **Q. Who did the copying?**

22 A. Post-closing, there's a couple
23 people, Tracy Hobbs, and she had other people
24 help her from time to time. I don't know.
25 It's not that hard of a job.

1 **Q. So she, Tracy Hobbs, or whoever was**
2 **helping her would take the completed package,**
3 **make a copy of it for Home America's records?**

4 **A. Correct.**

5 **Q. And ship the original to the**
6 **investor, which in the case of many of them**
7 **would have been TBW?**

8 **A. Correct.**

9 **Q. Where were the copies kept?**

10 **A. In a file room at the Home America**
11 **office.**

12 **Q. What steps were taken to make sure**
13 **that the completed package was copied**
14 **correctly?**

15 **A. We would get -- you would get --**
16 **after review of the investor, if there was**
17 **something missing, they would send a request**
18 **for docs.**

19 **Q. So before you sent it, was there any**
20 **review done?**

21 **A. Not on the copy.**

22 **Q. Was there any review done on the**
23 **original, post-closing, to make sure something**
24 **didn't get left on the closing table or**
25 **something like that?**

1 A. I never saw a closing table.

2 Q. I didn't intend to suggest you did.

3 My question is: Did anybody review
4 that package before it was copied and sent?

5 A. That was her job, to review it and
6 copy and send it.

7 Q. That was Tracy Hobbs' job?

8 A. Yes.

9 Q. And did anybody check her?

10 A. No. The investor.

11 Q. So what steps did Home America take
12 to ensure that the complete package went to
13 the investor?

14 A. Like I told you, Tracy Hobbs would
15 check the package, put it in a stacking order,
16 copy it, and send it to the investor. All of
17 it was scanned.

18 Q. Anything else?

19 A. That's it. If they didn't have all
20 the copies or didn't have what they needed,
21 they would send a request for it. But you
22 have to remember, the copy was for Home
23 America. The original went to them.

24 Q. I understand. That's why I've asked
25 about who checked the original rather than who

1 **checked the copy.**

2 A. Right.

3 **Q. You understand that's my question,**
4 **right?**

5 A. Well, the original went to them.

6 **Q. Did anyone check it before they sent**
7 **it?**

8 A. They check over it and send it, yes.

9 **Q. "They"?**

10 A. Tracy and whoever helped her.

11 **Q. And there were no other safeguards**
12 **other than Tracy and whoever helped her?**

13 A. Well, there's no other safeguards
14 needed because the documents that are the most
15 important are signed at the closing table.

16 **Q. Why did you hire Comfort Friddle?**

17 A. To be a processor.

18 **Q. Was she hired onto The Hicks Team?**

19 A. No.

20 **Q. Why not?**

21 A. She was hired under Home America.

22 For the record too, the woman that
23 processed for The Hicks Team, Gwen, also
24 processed for other people too as well,
25 especially if The Hicks Team was slow.

1 Q. So when you say 800 to 1,000 loans a
2 month, that's company-wide, right?

3 A. Company-wide.

4 Q. What percentage of that was Hicks
5 Team loans?

6 A. 10 percent.

7 Q. How were you the top producer, if
8 The Hicks Team only had 10 percent of the
9 loans?

10 A. I had 400 employees. Divide that
11 up.

12 Q. So you counted everybody's loans as
13 yours when you say you were the top producer?

14 A. No. I only counted what The Hicks
15 Team did.

16 Q. So if The Hicks Team was responsible
17 for 10 percent of the 800 to 1,000 loans a
18 month, that's 80 to 100 loans a month?

19 A. Correct.

20 Q. And you're saying, well, the rest,
21 the 90 percent of them, was disbursed over a
22 lot of other people? No other person
23 accounted for 10 percent --

24 A. That's right.

25 Q. -- or more? I understand.

1 A. Not quite that much.

2 Q. **I understand now. Anybody come**
3 **close?**

4 A. Many times.

5 Q. **Who?**

6 A. I think James Hewitt did. I believe
7 Mark Moore did. Chris Drexler did good.
8 There's a lot of them.

9 Q. **So Gwen was able to process**
10 **everything, the 10 percent, the 80 to 100 a**
11 **month herself, and still had time to work on**
12 **other people's loans as well?**

13 A. Some months we didn't do that, I
14 said, when we were slow.

15 Q. **So when The Hicks Team was slow, she**
16 **would help out in the other areas?**

17 A. Correct. One month we might do 150.
18 The next month we might do 50.

19 Q. **But you didn't have any other**
20 **processors who worked on The Hicks Team?**

21 A. That was the last one. But over the
22 years, there was other people that had done
23 it.

24 Q. **But one at a time?**

25 A. Yes.

1 **Q. Did Stephanie Kennedy interview**
2 **Comfort Friddle?**

3 A. I don't remember. I don't know.

4 **Q. Did she have any say in the hiring**
5 **of Comfort Friddle?**

6 A. I don't remember any of it on her
7 being hired or what the day was. I mean,
8 we're talking about ten years ago.

9 **Q. Did you work with Comfort Friddle at**
10 **all?**

11 A. Comfort Friddle worked for me.

12 **Q. Did you work directly with her?**

13 A. No, but she worked directly for me.
14 So, yeah, in that respect, I did work with
15 her.

16 **Q. What were her strengths as an**
17 **employee?**

18 A. I don't remember. I don't remember
19 enough about her. I'd have to have the
20 personnel file.

21 **Q. When did you make the decision to**
22 **suspend Friddle?**

23 A. Upon a call by Taylor, Bean &
24 Whitaker, Lee Farkas, CEO, that there was a
25 pool of loans that had early defaults on them

1 by two loan officers, which is a very unusual
2 happening within the Home America corporation.

3 **Q. Who were those loan officers?**

4 A. Jermaine Smith and -- no, Andre --
5 one of them is White, and Smith.

6 **Q. And who was involved in the decision
7 to suspend her, Comfort Friddle, that is?**

8 A. After we got the call from Taylor,
9 Bean & Whitaker, Lee, that we had these number
10 of loans that appeared to be suspicious, Lee
11 came to Atlanta, and me and Lee got in a car
12 and we went around to these 18 or so
13 properties that had been raised in question
14 that was located in a certain -- all in a
15 certain area that was over by Turner Field.
16 We went and evaluated these loans because the
17 only thing that was coming up that was
18 suspicious on them was what the investor was
19 saying was the value. Now, for the record,
20 none of these loans were FHA or government
21 loans.

22 So after we went around, some of
23 them did appear to be higher. Some of them
24 appeared to be worth more. The investor that
25 Taylor Bean was selling them to was not happy

1 with them.

2 So I asked Joanne Patterson, and I
3 asked if Stephanie Kennedy would help review
4 them files and let's see what pattern we had.

5 Before asking them to do that, I suspended
6 everybody that was involved on the files, the
7 two loan officers and Comfort, the processor.

8 **Q. Was Joanne your employee?**

9 A. She was. She was a loan officer
10 supervisor, with a great -- with 25 years
11 knowledge, with her underwriting certification
12 and everything else. She understood the
13 business well.

14 **Q. And at the end of their
15 investigation, what did they tell you?**

16 A. That there were some irregularities
17 the way the loans had been processed and that
18 Stephanie had recommended that Comfort be
19 terminated, as well as the two loan officers,
20 and it was concurred by Joanne Patterson. And
21 that information was transferred to Dennis.
22 It was transferred to me.

23 And I gave Comfort -- I told Dennis
24 to give Comfort a call and talk to her and
25 give her an option of what she wanted to do.

1 And she chose to resign instead of being
2 fired.

3 **Q. If she hadn't resigned, would she**
4 **have been fired?**

5 A. There's a good chance.

6 **Q. I don't know what that means. Was**
7 **it a choice of resign or be fired?**

8 A. It was a good chance I was probably
9 going to fire her, yes.

10 **Q. That was what Dennis was supposed to**
11 **communicate, would you prefer to resign or be**
12 **fired?**

13 A. Yes.

14 **Q. Did Stephanie or Joanne give you any**
15 **reasoning for why Comfort should be fired?**

16 A. Yes.

17 **Q. What was that?**

18 A. Bypass chain of -- we had a -- when
19 a file went to underwriting, it went into a
20 pool and the next available underwriter would
21 pick it up. She had made it a purposeful
22 event to make sure that a different
23 underwriter got a different file, if a
24 borrower was getting three loans.

25 Also, if a borrower came back and

1 got another loan, they were doing them
2 simultaneously, and she was raising the income
3 to meet the expectations of the new loan
4 amount without raising concerns.

5 **Q. How was she doing that?**

6 A. It's a non-income nonqualifying
7 loan. So it's stated. All the person has to
8 do is state how much money they make.

9 But to state that you made \$100,000
10 and then to state the next month, you made
11 \$200,000 is a little unreasonable and should
12 have been brought to our attention. With a
13 different underwriter getting each one of the
14 different files, no one could follow that
15 chain.

16 **Q. How are processors compensated?**

17 A. Salary, plus bonus per file.

18 **Q. What's the bonus per file?**

19 A. It was different per processor.
20 Time, knowledge, production.

21 **Q. When did it pay? When the loan**
22 **closed or when the loan --**

23 A. On their paychecks for the month, I
24 think. I'm not sure how it paid.

25 **Q. You don't know when they got credit**

1 **for it?**

2 A. I'm not sure of the exact day they
3 got credit for it, no.

4 Q. You said earlier that Home America
5 was audited several times, that that was
6 common to be audited?

7 A. Yes.

8 Q. Can you think for me the first time
9 you recall being audited at Home America by
10 anyone.

11 A. FHA, I don't remember the year, but
12 I know during my stint, that there was three
13 audits by FHA.

14 Q. You know about what? That there
15 were --

16 A. Three full audits.

17 Q. At the same time?

18 A. No, over my stint of owning Home
19 America.

20 Q. How far apart were they?

21 A. Pretty evenly spaced.

22 Q. Tell me what you mean by "full
23 audit."

24 A. They would come in and they would
25 pull a random number of file loans, anywhere

1 from 100 to 500, depending upon how many
2 people they brought to the audit. They would
3 re-underwrite every one of them loans, look
4 for any origination mistakes, look to make
5 sure that we were in compliance with our
6 signing of our documents, make sure our hiring
7 practices were right, make sure our net worths
8 were correct, make sure our loan accounting
9 log was in order, etcetera. And that's all I
10 know. I mean, they did a lot more than that
11 too, but I don't know the full duties.

12 **Q. Was the audit in the spring of 2006**
13 **by Freddie Mac a full audit?**

14 A. No.

15 **Q. What was it, then?**

16 A. It was a request for documents, I
17 think. I don't even remember if they came in
18 the office or if we sent them the 20 files
19 they asked for.

20 No, they reviewed nothing else. So
21 it would not be considered a full audit.

22 **Q. Were those 20 files related to the**
23 **White and Smith --**

24 A. I don't remember what 20 files they
25 were, but the majority were not because they

1 were not Freddie Mac loans. They were
2 investor, private label loans, 80/20.

3 **Q. How long have you known Carl Wright?**

4 A. Since -- he closed my first mortgage
5 as an originator. So I guess back since '98.

6 **Q. Was that in Loganville?**

7 A. I don't remember what year. I've
8 known him a long time.

9 **Q. But you were at Loganville?**

10 A. No. He wasn't in Loganville then.
11 He was in Duluth.

12 **Q. Are you aware of what the criminal
13 charges against him are?**

14 A. I am.

15 **Q. What are they, in your words?**

16 A. I guess he committed some type of
17 mishandling of loan closings that resulted in
18 federal charges.

19 **Q. That's the only understanding you
20 have of it?**

21 A. Uh-huh (affirmative).

22 **Q. Have you spoken with Mr. Wright in
23 the last two years?**

24 A. Yes.

25 **Q. When was the most recent time you**

1 **talked to him?**

2 A. Sentencing date, the day he got
3 sentenced.

4 **Q. Do you remember roughly when that**
5 **was?**

6 A. A few months ago.

7 **Q. What was the substance of that**
8 **conversation?**

9 A. About his sentencing.

10 **Q. What is his sentence? Do you know?**

11 A. I think -- I don't remember -- five
12 years, something like that, six years. I
13 don't know. I can't remember.

14 **Q. Where is he serving his time?**

15 A. I haven't been there. I don't know.

16 **Q. Did you talk about this lawsuit at**
17 **all?**

18 A. No. There's nothing I can talk to
19 him about this lawsuit.

20 **Q. Who is Tim Halstead?**

21 A. He was a former employee of Home
22 America Mortgage.

23 **Q. What was his job title?**

24 A. I think he was an overall -- like
25 loan officer supervisor. I don't think he

1 ever obtained a, quote-unquote, title. Maybe
2 he did. I don't know. But he was basically
3 in charge, before Dennis became president, of
4 helping loan officers with their needs,
5 training, things like that.

6 **Q. Did he leave when Dennis took over?**

7 A. He left after he was fired.

8 **Q. Why was he fired?**

9 A. He stole some money.

10 **Q. What money did he steal?**

11 A. We started Home America Lending,
12 which you'll find on that summary sheet, which
13 was basically a rehab program, when everything
14 was booming good, people were buying houses,
15 fixing them up and selling them. That doesn't
16 meet any lender guidelines or anything, so
17 Home America would use its own money to let
18 the people buy these houses and fix them up.
19 And he had to oversee it. So they made draws
20 as they repaired these homes.

21 And for the most part, the program
22 worked, except for Tim, who went out and
23 bought four houses and drew all the repair
24 money out but didn't do the repairs.

25 **Q. How did you find out?**

1 A. I figured it out when his wife got a
2 brand-new car, a new boob job, and bought a
3 new house and they were headed to the Bahamas
4 for ten days.

5 **Q. And what did you do?**

6 A. I called him to come to the office,
7 and I went and got that account and I found
8 out that he had four files and that was never
9 disclosed to me. I went and looked at the
10 houses that he said he had already rehabbed 80
11 percent, and they were just -- hadn't been
12 touched.

13 **Q. Were you able to recoup the money?**

14 A. No.

15 **Q. Did you rehire him later?**

16 A. I didn't rehire him.

17 **Q. Who did?**

18 A. Esplezz rehired him, which was a
19 mortgage training school that I was going to
20 be involved with but did not. I backed out of
21 it.

22 **Q. Can you spell that for me, please.**

23 A. E-s-p-l-e-z-z, I think.

24 **Q. Where was that supposed to be?**

25 A. Well, it was supposed to be all

1 over, to train new loan officers for Taylor
2 Bean, for Home America, etcetera, for banks.
3 An actual mortgage school, that's what it was,
4 if you want to know the truth.

5 **Q. Whose idea was that?**

6 A. A guy named Colin Daymude's, which
7 was the head of our personnel at that time.

8 **Q. Head of Home America personnel?**

9 A. Uh-huh (affirmative), personnel
10 director.

11 **Q. So who all was going to be involved
12 in the mortgage school?**

13 A. Colin Daymude was going to take the
14 largest percentage of it because he wanted to
15 go out on his own and start a company. He
16 wanted to hire Tim Halstead, which at first I
17 greatly protested, but as long as he wasn't in
18 my company and didn't have access to a
19 checkbook, I didn't care. He was a very
20 knowledgeable mortgage individual.

21 Lee Farkas and me -- before it got
22 started, though, I backed out of the deal. I
23 just couldn't get along with Colin and Tim.
24 So I relinquished my shares.

25 **Q. Did you ever put any money up?**

1 A. No.

2 Q. **Was the school ever founded, to your**
3 **knowledge?**

4 A. Yeah. They ran for -- I don't know.
5 I don't know how long it ran. They ran it for
6 a little while. Home America used it a couple
7 times and sent some new recruits through that
8 we recruited out of the colleges.

9 Q. **Who is Ginny Poore?**

10 A. Ginny Poore is an FHA underwriter
11 too. She was another one at Taylor Bean. I
12 didn't try to disguise her. I forgot her.

13 Q. **Did she ever do any of The Hicks**
14 **Team loans?**

15 A. She did a majority of The Hicks Team
16 loans.

17 Q. **What led to you and Home America**
18 **being put on the exclusion list for Freddie**
19 **Mac?**

20 A. To this day, I cannot give you a 100
21 percent answer to that. They did the 20-loan
22 audit. They said they found inconsistencies
23 in the 20 loans, which 20 loans are really --
24 how did they find them 20 loans out of the
25 100,000? I'm pretty sure it came from your

1 clients. I was not even familiar with the
2 loans that they audited.

3 They never used the word "fraud" to
4 me. They never used the word "theft." They
5 never used the word "crook," anything. They
6 said irregularities.

7 We appealed it. It took them over a
8 year, year-and-a-half to decide on the appeal.
9 And the final result came back that we're
10 going to put you on the exclusionary list due
11 to your inability to manage. Not one time did
12 they use the word "fraud." So not --

13 **Q. What do you think that means,
14 "inability to manage?"**

15 A. Let me finish, please, too.

16 **Q. Oh, I'm sorry. I thought you were.**

17 A. So not one time did they ask us to
18 buy back a loan, have they ever asked us to
19 buy back a loan, have they charged us with
20 fraud, have they gone and sued us for any
21 loans that Home America ever originated.

22 **Q. Were you in business at the time?**

23 A. At the time of what?

24 **Q. At the time that you were put on the
25 exclusionary list.**

1 A. Sure.

2 **Q. How much longer were you in
3 business?**

4 A. I was in business the whole -- I was
5 running the company the whole year-and-a-half
6 during the appeal process. And when Taylor
7 Bean bought it was right after the
8 exclusionary period.

9 **Q. What do you think it means,
10 "inability to manage"?**

11 A. That's a good question. I don't
12 know because I ran a pretty -- I thought I ran
13 a pretty good company. And the person that
14 told me I didn't have the ability to manage
15 lost \$100 trillion of the United States'
16 money. So I don't know what inability to
17 manage is under them type of terms.

18 **Q. Who is the person you're talking
19 about?**

20 A. Freddie Mac.

21 **Q. Oh, the entity?**

22 A. They told me I didn't know how to
23 manage, but yet they lost a hundred trillion
24 bucks.

25 MS. BRACKER: I'm going to take

1 about a ten-minute break. We can go back
2 on the record in about ten minutes.

3 (Whereupon a recess was taken from
4 2:42 p.m. to 3:11 p.m.)

5 **Q. (By Ms. Bracker) Mr. Hicks, have**
6 **you ever spoken with anyone at Brand Bank**
7 **Mortgage?**

8 A. Greg Shumate.

9 **Q. Who is Mr. Shumate?**

10 A. I don't know what his position is
11 over there now.

12 **Q. Do you know what it was when you**
13 **spoke to him?**

14 A. I think it was head of their
15 mortgage.

16 **Q. What did you speak to him**
17 **concerning?**

18 A. Them -- Stephanie and Allison,
19 Sandy -- going to work over there, recruiting
20 all my employees, telling everybody that I was
21 being sued and going to jail. And I called
22 him and told him he better stop it.

23 **Q. What did he say?**

24 A. "I didn't say anything."

25 **Q. You didn't?**

1 A. That was what he said, "I haven't
2 said anything."

3 **Q. I'm confused.**

4 A. That's what he said. You said, what
5 did he say?

6 He said, "I didn't say anything."

7 **Q. Oh, I see. I got you. So you said,**
8 **you better stop it. And he said, I haven't**
9 **said anything?**

10 A. Uh-huh (affirmative).

11 **Q. And you said what?**

12 A. That was the end of it. I hung up
13 on him.

14 **Q. What did you tell him was going to**
15 **happen if he didn't stop it?**

16 A. I don't remember the whole
17 conversation or anything.

18 **Q. Sandy is Sandy Flack?**

19 A. Sandy Flack.

20 **Q. What is Sandy Flack's -- what was**
21 **her position with Home America?**

22 A. Loan officer supervisor.

23 **Q. Was she terminated or resigned?**

24 A. She resigned.

25 **Q. Why did she resign?**

1 A. I don't remember.

2 Q. **When did she resign?**

3 A. I don't remember that either.

4 Q. **And Allison is Allison Paul?**

5 A. Yes.

6 Q. **And what was Allison's position?**

7 A. She was a DE underwriter for Taylor,
8 Bean & Whitaker.

9 Q. **Who worked in your office?**

10 A. Yes.

11 Q. **That was the other call you remember
12 making to Lee Farkas?**

13 A. Correct.

14 Q. **And what was the circumstances of
15 that?**

16 A. She had filed a -- after Stephanie
17 left, she had filed a restraining order on a
18 loan officer/her lover that she says she was
19 pregnant with, yet both of them were married.
20 And when she filed that restraining order,
21 seeing how she was not my employee, she was
22 Taylor Bean's employee and she had restrained
23 an employee of mine that was my employee, I
24 asked Taylor Bean to move her out of the
25 office.

1 **Q. Did they do so?**

2 A. They offered her that. And she said
3 she was going to sue them for sexual
4 harassment or something. So she met with
5 counsel for Taylor, Bean & Whitaker, and they
6 gave her some money to resign.

7 **Q. And who shared this information with**
8 **you?**

9 A. Jeff Cavender, the counsel for
10 Taylor, Bean & Whitaker.

11 He also shared a fact that Stephanie
12 sent that letter that you referred to, that
13 Allison Paul told him that Stephanie made the
14 letter sent to my wife. And you know the
15 letter I'm talking about.

16 **Q. I'm glad you brought it up because I**
17 **don't know if we're all talking about the same**
18 **letter. We've had a lot of exchanges about**
19 **the letter.**

20 **Tell me what letter you're referring**
21 **to?**

22 A. There was a letter sent to my wife
23 that said, you need to know that your
24 husband's had five affairs and he has
25 currently fathered a child. And it was made

1 up, like a crazy person, with cutout letters
2 of like articles in People magazine and pasted
3 together. And it must have took them hours to
4 do.

5 **Q. Have you seen the letter?**

6 A. I've seen it.

7 **Q. Do you remember about when it was**
8 **sent?**

9 A. About the time of Stephanie's
10 leaving, right before, a week before.

11 **Q. What do you think her motivation**
12 **would have been in sending such a letter?**

13 A. I can't speculate on her motivation,
14 but she -- I'm just telling you that
15 Allison Paul told counsel that Stephanie made
16 that letter and sent it.

17 **Q. And you don't deny you had a lot of**
18 **affairs?**

19 A. Oh, I deny I had a lot of affairs.
20 What do you consider a lot? And what do you
21 consider an affair?

22 **Q. You get to define it, since I'm**
23 **asking the question. What do you consider --**

24 A. I deny, then.

25 **Q. What do you consider an affair to**

1 **be?**

2 A. It's not my -- I'm not asking the
3 questions here. I don't know.

4 Q. I just asked you one. You just have
5 to give me an answer. What do you consider an
6 affair to be?

7 A. I would consider it to have a sexual
8 relation outside of marriage or outside of a
9 person being married.

10 Q. How many affairs have you had under
11 that definition?

12 A. Two. But, for the record, one of
13 them I was separated during the time of that.

14 Q. Do you remember who the person was
15 that was supposed to be having your baby when
16 the letter was sent?

17 A. It didn't say.

18 Q. It didn't say? It just said he's
19 having an affair and --

20 A. -- he's fathered a child. But I --
21 I think some calls went out to Tracy Hobbs,
22 and rumors got back to me that it's supposed
23 to be Tracy Hobbs.

24 Q. Calls went out to Tracy Hobbs?

25 A. I think your office called

1 Tracy Hobbs, if I'm not mistaken, or she
2 called your office, one or the other. She
3 called upset, saying that --

4 **Q. Called me upset or called --**

5 A. She called me upset, saying that
6 this vicious lie that's circulating everywhere
7 of me having your kid is going to cause me
8 major issues with my life.

9 And I told her to tell her husband
10 to call me. I didn't care. I don't -- so the
11 gist of it is supposed to be Tracy Hobbs.

12 **Q. And you did not have an affair with
13 Tracy Hobbs?**

14 A. I did not.

15 **Q. Who did you have an affair with?**

16 A. Amanda Alexander, Stephanie Kennedy.

17 **Q. In your earlier discovery responses,
18 you indicated you have no proof whatsoever of
19 the encounters that you supposedly had with
20 Stephanie Kennedy; is that right?**

21 A. I don't think I have proof, but I
22 think -- you know, you talk about them phones,
23 you know, some of them text messages, you
24 know, where she wanted me to meet her in the
25 school or meet her in my office. I know it's

1 on them phones. I just haven't been able to
2 locate it yet.

3 **Q. What have you done to try?**

4 A. I looked for them but -- I got them.
5 I got four or five phones in my house. And
6 then I got to get a battery for them and
7 charge them up and I haven't done it.

8 **Q. Do you have any time frame on that,
9 because the lawsuit, as you have pointed out,
10 has been around a really long time?**

11 A. I'll get around to it as soon as I
12 can get them opened up.

13 **Q. But you're sure they exist?**

14 A. I'm not sure they exist. I said I
15 think I got all the phones, but I haven't
16 turned them on to look.

17 **Q. I'm not talking about the text
18 messages. You're sure you have four or five
19 phones at your house?**

20 A. Yes.

21 **Q. And you have not delivered those to
22 your attorney?**

23 A. Not delivered them because I can't
24 open them up.

25 **Q. And you don't know where they are in**

1 **your house? They're just in your house**
2 **somewhere?**

3 A. Uh-huh (affirmative).

4 Q. **And if you were able to open them**
5 **up, your belief is that they would show**
6 **Stephanie texting you to meet her somewhere**
7 **for a rendezvous?**

8 A. There was a couple.

9 Q. **Was that the gist of them, though,**
10 **meet me somewhere?**

11 A. Yes.

12 Q. **And then you --**

13 A. And then the one that I told her I
14 was going to tell her husband about our affair
15 and where she called a truce. She asked for a
16 truce. That was prior to me knowing that she
17 had filed this.

18 Q. **So you only told us in your**
19 **discovery responses of two times that you**
20 **actually had an encounter with**
21 **Stephanie Kennedy. You say one was in your**
22 **car?**

23 A. One was in the car --

24 Q. **And one was in Orlando?**

25 A. -- one was in Orlando and one was in

1 my office. There's three times.

2 Q. **And all of those you don't have any**
3 **proof of, correct?**

4 A. Not at this particular time, no.

5 Q. **Is there proof somewhere that --**

6 A. Not that I've found yet. But the
7 whole system -- Home America is wired and
8 videoed. I just don't have the video DVR in my
9 hand. The bankruptcy attorneys do.

10 Q. **So there's videotape of all the**
11 **offices at Home America?**

12 A. That's right.

13 Q. **And you didn't tell me that in your**
14 **discovery responses?**

15 A. I told you I videotaped the whole
16 office, everything, the doors and everything,
17 the whole office. Every office in that place
18 was videoed, but I don't have the video.

19 Q. **Have you ever reviewed it?**

20 A. No, I haven't reviewed it. Again, I
21 don't have it.

22 Q. **No. I mean, prior to the end of the**
23 **company, you never reviewed the videotapes?**

24 A. No.

25 Q. **So you're speculating that**

1 **somewhere, there may be a videotape that may**
2 **or may not have recorded you and**
3 **Stephanie Kennedy in your office?**

4 A. Correct.

5 Q. **And you were married at the time**
6 **also?**

7 A. I was separated.

8 Q. **What period of time were you**
9 **separated?**

10 A. I was separated for two-and-a-half
11 years prior to the date of the final divorce.

12 Q. **Why did you separate from your wife?**

13 A. Because she took all my money and
14 left and married another guy. Pretty simple.
15 Cleaned the bank accounts out.

16 Q. **When was that? Two-and-a-half years**
17 **before your divorce was final?**

18 A. Yes.

19 Q. **So 2007?**

20 A. If that's two-and-a-half -- no, it
21 was before that. When was my divorce final?
22 I don't even know. It was a long, long
23 separation before we ever --

24 Q. **You're saying she remarried before**
25 **she divorced you?**

1 A. No, she didn't remarry before she
2 divorced me. She remarried shortly after.

3 Q. **So she took all your money, she ran**
4 **away with someone else, then there's a**
5 **two-and-a-half year separation, and then**
6 **you're divorced?**

7 A. No, that divorce got final. That's
8 why it got final, so she could get married.

9 Q. **That's what finally caused it to get**
10 **finalized?**

11 A. That's right.

12 Q. **So who is Amanda Alexander?**

13 A. Former employee.

14 Q. **What was her position?**

15 A. Loan officer.

16 Q. **On The Hicks Team?**

17 A. No.

18 Q. **How long was your affair with her?**

19 A. A year.

20 Q. **Did she accompany you back and forth**
21 **to Orlando?**

22 A. Not Orlando, no.

23 Q. **Who is Mary Hicks?**

24 A. My sister.

25 Q. **I thought you only had two?**

1 A. Mary Christen.

2 Q. Oh, Christy Hicks is also
3 Mary Hicks?

4 A. Uh-huh (affirmative).

5 Q. What about Clarence?

6 A. Clarence who?

7 Q. Clarence Hicks.

8 A. I don't know.

9 Q. What are your parents' names?

10 A. James and Judy.

11 Q. Are they living?

12 A. No.

13 Q. So I'm about to ask you some
14 questions relating to your interrogatory
15 responses that your attorney just provided me
16 with a draft of. Have you had a chance to
17 review these yourself?

18 A. I did.

19 Q. Are they complete?

20 A. I guess so.

21 Q. They're, to the best of your
22 knowledge, complete now?

23 A. To the best of my knowledge. It
24 depends upon which one you're asking, but I'm
25 pretty sure I answered everything that I could

1 remember.

2 Q. Have you done anything other than
3 base it on your recollection to answer these
4 questions?

5 A. No.

6 Q. Did you talk to anybody else to make
7 sure you had as much detail as you could get
8 on these answers?

9 A. On which question?

10 Q. Your discovery in general. Have you
11 talked to anybody for any of the questions?

12 A. No, I didn't talk to nobody about
13 it.

14 Q. So I'm looking at your list of
15 companies and corporations.

16 A. Yes.

17 Q. Do you remember that one, No. 9?
18 And I'm guessing that's one of the ones you --
19 just based on what I heard you say going out,
20 you want to make sure they're all here?

21 A. Yeah. I tried a lot of different
22 things.

23 Q. So Hicks & Hicks, Inc., 50 percent
24 ownership, this is the second thing listed.
25 Do you recall Hicks & Hicks?

1 A. Yes.

2 Q. Who had the other 50 percent
3 ownership?

4 A. Stephen Hicks.

5 Q. Who is that?

6 A. He was a friend of mine. He's not
7 related.

8 Q. Odom Green, Inc., you have 50
9 percent ownership. Who is the other 50
10 percent?

11 A. Stephen Hicks.

12 Q. Evans Family Development, you have
13 33.3 percent ownership. Who has the other
14 percentages?

15 A. The two sisters listed.

16 Q. Listed where? Oh, that you've
17 already told me about?

18 A. Uh-huh (affirmative).

19 Q. Lori and Christy?

20 A. Correct.

21 Q. Same for Home America Insurance,
22 Inc.?

23 A. Yes -- no. No. No. That was
24 Taylor Bean and me.

25 Q. Taylor Bean had the rest of the

1 **ownership and you had 33.3?**

2 A. No. There might be a
3 miscommunication there. I was left with 33
4 percent when I sold it.

5 **Q. 20 Moon Properties, 50 percent
6 ownership, we already talked about that?**

7 A. Yeah.

8 **Q. BodyPlex, Grayson, 49 percent
9 ownership, we already talked about that?**

10 A. Yes.

11 **Q. Home America Mortgage, Inc.,
12 previously owned 90 percent.**

13 **There have been bankruptcy
14 proceedings against you in connection with the
15 bankruptcy of Home America and TBW, correct?**

16 A. Yes.

17 **Q. Now, in your discovery responses, in
18 the TBW bankruptcy, you stated that you
19 received approximately \$20 million in
20 consideration for the sale of Home America to
21 TBW?**

22 A. I think -- I didn't receive any \$20
23 million.

24 **Q. What did you receive?**

25 A. At the time of the closing, I got

1 \$1 million and a note. How about them apples?

2 **Q. Well, according to the documents**
3 **that you produced, starting at GH001 through**
4 **296, you indicated you received a wire**
5 **transfer, in your name, to Colonial Bank for**
6 **\$1.8 million.**

7 A. Was it 1.8?

8 **Q. That's what it says. And a wire --**

9 A. I thought it was just 1 million.

10 **Q. And a wire to Community Bank for 1.1**
11 **million.**

12 A. That was one of the payments.

13 That's why I said they bankrupted on 90
14 percent of the note. They paid me 10 percent
15 of it, outside the closing table. 1.8, I did
16 receive, but I had to pay the corporate tax
17 out of my proceedings for Home America for the
18 year. That added up to about \$800,000.

19 **Q. And 9 million to satisfy a**
20 **promissory note dated 9-15-08 to be paid on**
21 **closing on 1-6-09?**

22 A. Right.

23 **Q. And then another \$9 million**
24 **promissory note, unsecured, nonnegotiable,**
25 **subordinated, delivered at closing. I assume**

1 **that's the 9 million they bankrupted you out**
2 **of?**

3 A. Yes.

4 Q. **What about the \$9 million promissory**
5 **note?**

6 A. It was on properties and things like
7 that I had and money I owed and some money I
8 had taken out to buy some loans back from
9 Taylor Bean when I -- for some income
10 purposes.

11 Q. **I thought you were not ever asked to**
12 **buy back any loans?**

13 A. No government entity has ever asked
14 me to buy back a loan, and Taylor Bean has
15 never asked me. I asked them, for business
16 purposes.

17 Q. **What business purposes?**

18 A. Income-producing, for the money, and
19 because the tax audits required me to --
20 holding that much cash, wanted me to take cash
21 out of my company and pay tax on it. So we
22 purchased some loans back.

23 Q. **So you approached Taylor, Bean &**
24 **Whitaker. Who at Taylor, Bean & Whitaker?**

25 A. Lee Farkas.

1 **Q.** **And you asked him to buy back some**
2 **loans?**

3 **A.** Correct.

4 **Q.** **Why?**

5 **A.** I just told you.

6 **Q.** **I didn't understand you.**

7 **A.** Tax purposes mainly.

8 **Q.** **How many loans did you buy back?**

9 **A.** I don't remember. 30 or 40.

10 **Q.** **About what did they total? How much**
11 **did they total?**

12 **A.** What the note amount was.

13 **Q.** **\$9 million?**

14 **A.** Yeah.

15 **Q.** **So you transferred \$9 million to**
16 **Taylor, Bean & Whitaker?**

17 **A.** Correctamundo.

18 **Q.** **I didn't hear you.**

19 **A.** Yes.

20 **Q.** **Correct till Monday?**

21 **A.** Correctamundo, that's what I did. I
22 transferred --

23 **Q.** **Correctamundo. I see. Okay.**

24 **So you transferred \$9 million to**
25 **them to buy back these loans. When did that**

1 **happen?**

2 A. Before the sale, a year before the
3 sale or so.

4 Q. **And then you took a promissory**
5 **note -- actually took \$9 million at closing?**

6 A. No, not at the closing, I didn't.

7 Q. **I think that's what your discovery**
8 **responses say. So you now say your discovery**
9 **responses are incorrect?**

10 A. I don't know. I'm not sure what
11 you're saying. But at the closing table, I
12 did not get no \$9 million.

13 Q. **Was \$9 million transferred to**
14 **someone who you owed money to?**

15 A. No. I had a transfer of \$8 million
16 prior to the closing, way prior to the
17 closing.

18 Q. **To whom?**

19 A. To me.

20 Q. **For what?**

21 A. Repurchase of them loans.

22 Q. **So you've got 1.8 coming into your**
23 **Colonial Bank account, you've got 1.1 coming**
24 **into Community Bank, and you've got 8 million**
25 **coming into you in advance of the sale?**

1 A. Correct.

2 Q. And then you have a \$9 million
3 promissory note? That's your testimony today?

4 A. Yeah, that's what happened.

5 (Plaintiff's Exhibit 2 was marked
6 for identification.)

7 Q. (By Ms. Bracker) I will show you
8 what's been marked as Plaintiff's Exhibit 2.
9 Take a minute to look at it. Do you recognize
10 this type of document?

11 A. I do.

12 Q. Where did it come from?

13 A. That's a standard application for a
14 mortgage.

15 Q. And it says Home America, Inc., at
16 the top. So this is Home America's standard?

17 A. It's everybody's standard.

18 Q. And it's the one Home America used?

19 A. It is.

20 Q. What's that Ocala address at the
21 top?

22 A. I guess that's Taylor Bean's office,
23 because it actually -- we originated off of
24 their system too. So it's probably come off
25 of their docs.

1 **Q. So if you turn to the third page, is**
2 **that your signature?**

3 A. It's not.

4 **Q. Who has signed that for you?**

5 A. I don't know.

6 **Q. Does that disturb you to know**
7 **someone signed for you?**

8 A. Well, they should have asked me to
9 sign it, but somebody didn't because that's
10 not my signature.

11 **Q. Do you know whether they signed it?**

12 A. No. I don't even know this loan. I
13 don't know anything about this documentation,
14 who this is or anything about it.

15 **Q. I didn't expect that you would**
16 **remember much about it, if anything, since it**
17 **was so long ago.**

18 **But you're telling me you do**
19 **remember and that you didn't have anything to**
20 **do with it?**

21 A. I'm saying I don't know this
22 documentation, this letter, this nothing. I
23 don't know anything about this file.

24 **Q. So you don't know whether someone**
25 **got your permission to sign your name?**

1 A. No, I don't remember.

2 Q. Was it common for people to sign
3 your name?

4 A. No.

5 Q. Take a look on the first page. I'm
6 going to point because it's easier. Right
7 about here, "Source of down payment,
8 settlement charges and/or subordinate
9 financing (explain)." That says, "Gift
10 funds."

11 Anything about that that would raise
12 red flags for you?

13 A. I don't know anything about it. I
14 didn't talk to this person.

15 Q. You definitely did not talk to this
16 person?

17 A. I don't think so. I don't remember
18 them, if I did.

19 Q. Well, those are two different
20 answers.

21 A. I don't remember talking to the
22 person.

23 Q. You don't remember whether you did
24 or didn't?

25 A. Yeah.

1 **Q. Look on the second page. At the**
2 **bottom, "Other Assets (Itemize)," \$50,000.**

3 **Any idea who put that down or what**
4 **that meant?**

5 A. I have no idea.

6 **Q. Because this is a person with \$500**
7 **in the bank.**

8 A. Yeah. But you know what, the other
9 items right here, other assets of \$50,000,
10 let's add up their TVs, their cars, their
11 phones. Let's add up their clothing. Let's
12 add up the tires on their cars. Let's add up
13 every asset they got. And, of course, anyone
14 with \$500 in the bank would probably have
15 \$50,000 worth of assets.

16 **Q. Well, I'm sure that's true, but it**
17 **says itemize. They're supposed to write down**
18 **their car, their TV. They're supposed to tell**
19 **me what's that's being based on, right?**

20 A. The underwriter should have asked
21 for it to be itemized, if they wanted it to.

22 **Q. I think that's what it's asking**
23 **here, itemize.**

24 A. That's the underwriter's job. If
25 she wanted that itemized, she should have

1 asked for it.

2 Q. So you do not think there was
3 anything wrong with it being filled out the
4 way it was filled out?

5 A. No.

6 Q. Turn to the next page where your
7 signature appears at the bottom with
8 face-to-face interview checked. Your
9 testimony is that that is not your
10 signature --

11 MS. FODOR: You don't happen to have
12 one more, do you?

13 MS. BRACKER: I do not.

14 Q. (By Ms. Bracker) -- that you don't
15 recall this loan.

16 What is the purpose of the signature
17 there on "To be Completed by Interviewer"?
18 What's your understanding of that purpose?

19 A. I guess to say everything that they
20 heard, they put down.

21 Q. And it doesn't seem wrong to you
22 that someone should put down your name when
23 it's not you?

24 A. That's not my signature.

25 Q. That's not my question. Do you

1 think that's okay to put down somebody else's
2 name there?

3 A. No, probably not.

4 Q. And, again, we have the name and
5 address of the interviewer's employer, Home
6 America Mortgage, Inc., in Ocala, Florida.

7 But that's not right either, is it?

8 A. Yeah, because Home America was a
9 Florida corporation.

10 Q. But based on your understanding of
11 the loan industry and how long you've been
12 involved in it, you don't see anything wrong
13 with this application as filled out?

14 A. The \$50,000 in "Other Assets
15 (Itemize)," if the underwriter wanted them
16 itemized, she should have asked for it. It's
17 pretty plain and simple. They only have \$500.
18 And the underwriter is going to look at it and
19 see that, hey, you only have 500 bucks here.
20 The 50,000 is not listed as to what items they
21 are.

22 So what kind of factor can that
23 person give to it? Probably none, if you're
24 an underwriter. And so you know all the other
25 facts of the case here, being what it is.

1 So I understand that we got a
2 signature situation here, but we also only
3 have a declaration of \$500 of total liquid
4 funds. I doubt very seriously there's a lie
5 here.

6 **Q. You doubt very seriously --**

7 **A. -- that there's any lies.**

8 **Q. But I'm asking something very**
9 **different. I'm asking you whether you think**
10 **that application is an appropriately**
11 **filled-out application.**

12 **A. Up to the signature, yes.**

13 **Q. Up to the signature, yes?**

14 **A. Yes.**

15 **Q. I'm going back to your discovery**
16 **responses because I was about to deny you the**
17 **opportunity to tell me what Hog Bid, LLC, is**
18 **and I'm very curious. What's Hog Bid, LLC?**

19 **A. It was a little Internet site that**
20 **sold motorcycles, and I was involved -- I was**
21 **going to do it, but we never did a thing with**
22 **it.**

23 **Q. And Ham Air, LLC?**

24 **A. That was my old airplane.**

25 **Q. Does it still have the airplane as**

1 **an asset?**

2 A. No. It's gone.

3 **Q. What about Edge Funding, LLC?**

4 A. It's a deal I set up -- a company I
5 set up to try to put on a few little concerts
6 down in Florida, nothing major. It's not
7 active, not open, no bank account.

8 **Q. And Buzz Entertainment Group?**

9 A. It's part of the marketing for the
10 nightclub I owned with Lee Farkas.

11 **Q. And Action Promotions, Inc.?**

12 A. Was the Easyriders event stuff that
13 I bought into.

14 **Q. Bought into from whom?**

15 A. A guy named John Green. I bought
16 his shares out.

17 **Q. So who is the other 50 percent?**

18 A. Melissa Penlin. I don't own it now.
19 It's been gone.

20 **Q. Who owns it now?**

21 A. I gave my shares all up to
22 Melissa Penlin for no consideration and walked
23 away from it.

24 **Q. When was that?**

25 A. About a year ago, when we owed about

1 \$700,000 in debt.

2 **Q. "We," Action Promotions?**

3 A. That's right.

4 **Q. Why did you owe \$700,000 in debt?**

5 A. Royalties to the magazines for the
6 use of the names, \$600,000, and we was
7 \$100,000 short on bills.

8 **Q. And TWBS, LLC?**

9 A. Actually, Melissa Penlin doesn't
10 known that Action Promotions anymore, I don't
11 think. I think it was all taken back by the
12 royalties of the magazine, executed their
13 royalties and took over that Action Promotions
14 company, if I'm not mistaken, how it happened.

15 **Q. Which magazine would that be?**

16 A. It wasn't a bank. It was the
17 magazine.

18 **Q. Right. Which magazine was that?**

19 A. Easyriders magazine.

20 **Q. Do you still own any motorcycles?**

21 A. One.

22 **Q. What kind?**

23 A. Harley.

24 **Q. TWBS, LLC, what's that?**

25 A. I can't remember what it's for. I

1 don't remember. I can't even remember that
2 company. I'm not sure.

3 Oh, that's a bar. That's what it
4 was. It was a bar in Daytona that I owned
5 40 -- or 30-something percent of.

6 **Q. Still?**

7 A. No. It's gone.

8 **Q. Who owned the rest of the**
9 **percentage?**

10 A. Bruce Rossmeyer, that owned the
11 Harley dealer in Daytona. They own it all
12 now. He got killed. His family took it all
13 back.

14 MS. BRACKER: I think I'm very close
15 to done, or possibly done, but I want to
16 look through, because we've had so many
17 papers added in, I want to take a minute
18 off the record and look through.

19 (Whereupon a recess was taken from
20 3:43 p.m. to 3:51 p.m.)

21 **Q. (By Ms. Bracker) Do you have any**
22 **domain names registered to you, website domain**
23 **names?**

24 A. I'm not sure. If I did, somebody
25 registered them for me. Like Hog Bid, I'm

1 sure, was registered. I'm not sure if it
2 still is or not, things like that.

3 Q. I'm going back to your draft
4 interrogatory responses. The interrogatory
5 that we asked was: Identify every instance
6 you were made aware of of documents being
7 altered for a loan file by a Home America or
8 TBW employee, including what alteration was
9 made, why the alteration was made, who made
10 the alteration, whether or not you gave
11 approval to make the alteration.

12 Your response is: I interpret the
13 words altered and alteration, as used above,
14 to be broad. And given thousands of loans,
15 I'm unable to specifically and directly
16 respond.

17 So fortunately that's what
18 depositions are for. Do you understand what I
19 mean by alter or alteration?

20 A. No. Define it for me.

21 Q. No. I would like you to define it
22 for me. You may choose your definition.

23 A. Changed.

24 Q. Do you ever recall documents being
25 changed in a loan file by a Home America

1 **employee?**

2 A. No, I don't know specifics on
3 documents being changed or swapped or, you
4 know, if you get a bank statement and they
5 don't have enough money to close and they got
6 to wait until their payday to get a new bank
7 statement and that document gets changed out.
8 I don't know about being changed or altered in
9 the sense of criminal alterations.

10 Q. You don't know of any occurring --

11 A. I don't know.

12 Q. -- in the criminal alteration sense?

13 A. No.

14 Q. And by "criminal alterations," you
15 mean improperly changing documents?

16 A. Let me just state for the record
17 too, I have never changed a document.

18 Q. And are you aware of any TBW
19 employee changing a document --

20 A. No.

21 Q. -- improperly?

22 I'm going to look back quickly at
23 Plaintiff's Exhibit 2. I want to look at the
24 second page, Other Assets (Itemize). Is that
25 a number that the lender typically gives you,

1 **or is that a number that whoever is writing it**
2 **down generates that number?**

3 A. That's the number they ask them, how
4 much all the assets you have are worth.

5 **Q. And then they tell you \$50,000?**

6 A. Yes.

7 **Q. And are you supposed to ask, what's**
8 **that based on?**

9 A. No, because this actually doesn't
10 enter into the underwriting criteria of DU and
11 LP.

12 **Q. I'm sorry?**

13 A. This doesn't enter into the criteria
14 of DU and LP unless it's liquid.

15 **Q. I don't understand what you just**
16 **told me.**

17 A. This particular line does not enter
18 into.

19 **Q. You're saying --**

20 A. You put it in there, but it doesn't
21 factor into it.

22 **Q. I'm asking you something entirely**
23 **different, and you're now telling me something**
24 **entirely off of what I'm talking about. But**
25 **I'm happy to let you explain what you have**

1 **apparently learned from your attorneys during**
2 **the break in just a second.**

3 A. No, we didn't talk about that.

4 Q. **But tell me about your other assets**
5 **(itemize).** So if a borrower comes in and
6 speaks with a loan officer and says, I have
7 \$50,000 in other assets, that's a number that
8 you just take and put down?

9 A. Yeah.

10 Q. **You don't need to ask -- you don't**
11 **need to, as it says, itemize? You don't ask**
12 **that?**

13 A. If you run it through the system and
14 it asks you to give them an itemized thing,
15 then you have to go back and get it itemized,
16 what are these assets.

17 Q. **But I'm talking about this interview**
18 **time. Like this is a face-to-face interview,**
19 **it says.**

20 A. How long are you going to take to
21 put down their socks?

22 Q. **I don't know. I don't do this.**
23 **That's why --**

24 A. How long to take down their socks
25 and their ring and their jewelry and their

1 watch and their tires and their car?

2 Q. Well, tires and cars are both
3 covered under automobiles, right?

4 A. Well, I don't know. Is it? Maybe;
5 maybe not.

6 Q. How would it not be covered by
7 automobiles?

8 A. If they have a second car.

9 Q. That wouldn't go under automobiles?

10 A. No. They usually just ask what car
11 you got.

12 Q. Well, it's plural.

13 A. Or if they got an old-timey
14 collector car or something like that.

15 Q. So it says automobiles owned,
16 plural, but you're telling me that when you
17 filled out applications, you just put one car
18 there and you put --

19 A. Whatever they said their car was.

20 Q. I need to finish my question. And
21 you put the other car information in itemized
22 assets? That was your practice?

23 A. I didn't put any -- I didn't ask
24 them anything. I said, what is your other
25 assets worth?

1 **Q. And you didn't ask if they had any**
2 **other cars?**

3 A. No. I never was in-depth on that
4 particular line, not one time ever.

5 **Q. Which particular line?**

6 A. The line you're talking about with
7 the \$50,000 worth of assets put in.

8 Furthermore, out of the three HUD
9 audits, not one time did that get raised as a
10 question either.

11 **Q. What didn't get raised as a**
12 **question?**

13 A. "Why don't you itemize these?"

14 **Q. I thought they didn't give you any**
15 **information from the audits?**

16 A. They gave me information on the
17 audits.

18 **Q. Tell me about the information they**
19 **gave you, then.**

20 A. I don't remember what the
21 information was. I mean, Home America, over
22 the course of three audits, incurred about
23 \$7,000 in fines for whatever the case is,
24 whether it's not keeping the logbook up or
25 whatever. I don't know what the fines were

1 for.

2 But \$7,000 for a fine when you're
3 the largest FHA lender in the state of Georgia
4 is not even a significant finding. They did
5 tell me that I needed to lend to more
6 minorities.

7 **Q. And these are HUD audits, yes?**

8 A. That's right.

9 And we got wrote up for not keeping
10 good enough employee record files, which
11 improved over the years. But Home America on
12 these FHA audits never obtained a fine for any
13 fraudulent activities, never obtained a
14 suspension, probation, or even a warning.

15 **Q. You mean until you were put on the
16 exclusionary list?**

17 A. I was not put on the exclusionary
18 list by FHA.

19 **Q. Oh, okay. So Freddie Mac is the
20 exclusionary list?**

21 A. The FHA list, I did not get a
22 finding for it.

23 **Q. But you weren't a direct insured
24 lender?**

25 A. No.

1 **Q. So why would they have put you on**
2 **their exclusionary list when you weren't --**

3 A. Because a direct insured lender is
4 not a Freddie Mac deal. You're talking about
5 two different entities, ma'am.

6 **Q. Well, I realize that.**

7 A. A direct insured entity is HUD, the
8 government. Freddie Mac is not the
9 government, at least at that time.

10 **Q. So when you talk about HUD audits,**
11 **you're saying HUD audits never resulted in you**
12 **being put on any exclusionary list?**

13 A. That's right, probations,
14 suspensions, disciplinary action, etcetera.

15 **Q. That was just Freddie Mac?**

16 A. That was just Freddie Mac.

17 **Q. Now, you were telling me that that**
18 **line -- and I think you're talking about the**
19 **other assets -- that you've had a revelation**
20 **about that, that that does not get entered**
21 **into DU and LP. Go ahead and tell me what you**
22 **were telling me.**

23 A. Unless it's a liquid asset, it
24 doesn't factor into the loan consideration
25 under the DU and LP. It might factor into an

1 underwriter's consideration on a manual, but
2 it doesn't factor in on a DU and LP
3 consideration.

4 **Q. Can you tell from this application**
5 **which kind this was?**

6 A. No.

7 **Q. Why do you gather this information?**

8 A. Why do I gather what information?

9 **Q. The line we're talking about, other**
10 **assets.**

11 A. Because it asks you to put something
12 there.

13 **Q. Well, it asks you to itemize it, but**
14 **you don't do that.**

15 A. No.

16 **Q. So why do you do it at all?**

17 A. Well, that was -- like I said,
18 there's absolutely no way to itemize
19 everything that a person owns.

20 **Q. Have you been through a bankruptcy,**
21 **Mr. Hicks?**

22 A. Not yet.

23 **Q. I assure you there's a way to**
24 **itemize everything a person owns.**

25 **What factors do go into assets on**

1 **the DU and LP?**

2 A. Liquid.

3 **Q. Is that it?**

4 A. Pretty much, yes.

5 **Q. And what is that compared against?**

6 A. 500 bucks on this loan and the gift
7 funds on this loan.

8 **Q. So net worth is not entered into
9 DU --**

10 A. No.

11 **Q. Net worth is not entered into DU and
12 LP?**

13 A. Their net worth is \$58,000 with
14 their gift funds. I mean, come on. You're
15 going to say this is mortgage fraud on this
16 particular loan with somebody putting down
17 their net worth of \$58,000? You can almost
18 get a homeless person on the street to get a
19 net worth of \$58,000.

20 **Q. How would you do that?**

21 A. Well, I'm sure their family member's
22 holding something of theirs in storage
23 somewhere or somebody's got something in
24 storage. I mean, come on. Please tell me you
25 have something a whole lot better than this

1 that you're going to come in and accuse me of
2 loan fraud. Please tell me you have a lot
3 more than this.

4 **Q. Would you like to go through all the**
5 **loan files one by one?**

6 A. I've seen the loan files. I went
7 and looked at them.

8 **Q. When did you look at them?**

9 A. I went to Washington and looked at
10 all of them.

11 **Q. When was that?**

12 A. Prior to you receiving them.

13 **Q. Because you didn't tell me that when**
14 **I asked if you'd reviewed the loan files. You**
15 **said you had not reviewed the loan files to**
16 **this day.**

17 MR. PARKER: Excuse me. You said in
18 a specific question as to the documents
19 you gave to me, if he had reviewed those.

20 MS. BRACKER: I've asked the
21 question --

22 MR. PARKER: No. Excuse me. I'm
23 going to correct this statement.

24 MS. BRACKER: Okay. I believe --

25 MR. PARKER: You didn't ask the

1 question whether he reviewed all of the
2 HUD loan files. Ask it, and he'll answer
3 it.

4 MS. BRACKER: You're right, I did
5 not ask that question. I asked if he
6 reviewed the loan files specifically that
7 are in my Complaint, in my Motion for
8 Summary Judgment.

9 MR. PARKER: No. Ask it in terms of
10 the document -- the disc you gave me. Has
11 he reviewed the loan files of HUD before
12 you got them in discovery?

13 MS. BRACKER: I asked the
14 question --

15 MR. PARKER: Ask that question, and
16 you'll get that answer.

17 MS. BRACKER: Mr. Parker, if you
18 continue to interrupt me, I'm going to ask
19 that we take a brief break. I'm really
20 not enjoying being interrupted. You're
21 louder than me, but that doesn't make you
22 right.

23 Can you please go back in the
24 transcript to the questions that I asked
25 earlier concerning the loan files that

1 Mr. Hicks supposedly had reviewed or not
2 reviewed.

3 THE WITNESS: That's what I thought
4 she was referring to.

5 (The record was read by the
6 reporter.)

7 MS. BRACKER: That's enough. That's
8 the question to which I'm referring. That
9 didn't address your disc or anywhere else
10 he's --

11 MR. PARKER: Well, continue to read.

12 MS. BRACKER: That's the question
13 that I'm referring to.

14 MR. PARKER: All right. Then follow
15 up on that.

16 MS. BRACKER: When he answered that
17 question, there was nothing pending
18 about --

19 MR. PARKER: You can either follow
20 up on it or I will follow up on it.

21 MS. BRACKER: You are more than
22 welcome to do whatever you feel you need
23 to do.

24 MR. PARKER: Thank you.

25 **Q. (By Ms. Bracker) Mr. Hicks, after**

1 **you went to D.C. to look at loan files for**
2 **HUD, have you looked at loan files at any**
3 **point since then?**

4 A. No, I haven't looked at them.

5 Q. **And when you reviewed the loan files**
6 **at HUD, were you convinced that there was no**
7 **fraud in those files?**

8 A. Absolutely, not on my behalf.

9 Q. **That's not my question. So listen**
10 **to my whole question.**

11 **Did you believe there was no fraud**
12 **in those files?**

13 A. I only looked for fraud that I would
14 have done. I didn't look for fraud anybody
15 else may have done.

16 Q. **Where would you have found fraud**
17 **that you did?**

18 A. Just within the documentation of the
19 loan files themselves, of the applications.

20 Q. **I'm sorry. I'm confused, because so**
21 **far today you've told me, you didn't input the**
22 **data. You didn't check that it was input**
23 **correctly.**

24 A. Right.

25 Q. **You're not aware who signed your**

1 **name.**

2 A. Right.

3 **Q. Where were you looking for your**
4 **fraud?**

5 A. I just looked through the
6 application process to look for what type of
7 loans they were that we were looking at.

8 **Q. And you found no evidence of fraud?**

9 A. No.

10 **Q. No suspicious applications?**

11 A. Absolutely not.

12 **Q. Thank you.**

13 **Can you tell from that application**
14 **what the person was given, who applied, as to**
15 **Exhibit 2?**

16 A. What they were given?

17 **Q. For their loan.**

18 A. How much?

19 **Q. Yes.**

20 A. Well, you know, the problem with
21 this one is this might be the first scratch
22 app. The final app for what the actual loan
23 amount was was worked off of the true numbers
24 and signed at the closing table. I don't know
25 if this was the closing table signed one or if

1 it was a scratch-out one. But it looks like
2 the loan amount was 179,188.

3 **Q. Is that pretty standard for issuing**
4 **to a homeless person?**

5 A. I didn't say he was homeless.

6 **Q. I think we said assets of \$50,000**
7 **would be about right for a homeless person.**

8 A. Yeah, but this person was not
9 homeless because they had a house for two
10 years -- or a residence for two years at 2255
11 Satellite Drive.

12 **Q. Oh, okay.**

13 A. The homeless reference was for -- in
14 general, as a general statement, stating
15 somebody to have \$50,000 worth of net worth is
16 probably not very hard to come up.

17 **Q. Yes, that you would be comfortable**
18 **finding a net worth of \$50,000 for any**
19 **homeless person, I think, is what you said.**

20 A. No, I didn't say that. I said a
21 homeless person probably could come up with
22 \$50,000 worth of net assets. I didn't say
23 all.

24 **Q. I don't think I have any more**
25 **questions at this time.**

MR. PARKER: I just have a few follow-ups.

DIRECT EXAMINATION

BY MR. PARKER:

Q. Mr. Hicks, did you, in fact, have an affair with Stephanie Kennedy?

A. I did.

Q. And what is the proof of that?

A. The proof is I did it.

Q. Personal knowledge?

A. I'll stand up, I'll testify in court, I had an affair with Stephanie Kennedy.

Q. The files you reviewed up in Washington were at the counsel's office for HUD, correct?

A. Yes.

Q. And who else was present with you?

A. Buddy Parker and Dennis Moseley.

Q. And we had access to all of the files, correct?

A. Correct.

Q. And you and Mr. Moseley and myself reviewed those files, correct?

A. Correct.

Q. Were those files files of Taylor,

1 **Bean & Whitaker?**

2 A. They were Taylor, Bean & Whitaker's
3 file copies, yes.

4 Q. **While you were the president and/or**
5 **CEO of Home America, did Home America**
6 **Mortgage, Inc., ever make a claim with FHA,**
7 **HUD, or any other U.S. government agency for**
8 **insurance payments on any mortgage**
9 **origination?**

10 A. No. They're not capable of doing
11 that.

12 Q. **I have no further questions.**

13 MS. BRACKER: I have a brief
14 follow-up on your questions.

15 RECROSS-EXAMINATION

16 BY MS. BRACKER:

17 Q. **Can you explain to me what the**
18 **relevance of your alleged affair with**
19 **Stephanie Kennedy is to this lawsuit.**

20 A. No relevance. You asked me on the
21 deposition if I had -- who I had a sexual
22 affair with, and I told you. So you tell me
23 what the relevance is.

24 Q. **Well, you brought her up first.**

25 A. No.

1 Q. You brought her up in your discovery
2 responses. From the beginning of the lawsuit,
3 you have brought that up. So I'd like to
4 understand why you think that's relevant.

5 A. No. You brought it up.

6 Q. If you're only saying it's relevant
7 because I asked a question of you today, then
8 I'll accept that answer. Is that your
9 answer --

10 A. Yes.

11 Q. -- it's irrelevant except for my
12 questions?

13 A. Irrelevant.

14 Q. Thank you.

15 When did you go to D.C. to review
16 these files?

17 A. Right after the government made
18 them -- I don't know the dates. Right after
19 the government made them available for
20 release.

21 Q. And you just testified that they
22 were TBW file copies, correct?

23 A. Correct.

24 Q. And if I understood your earlier
25 testimony correctly, that was the copy -- or

1 **that was the original that was made as the**
2 **loan package and sent by -- was it**
3 **Tracy Hobbs -- is that the person --**

4 A. Uh-huh (affirmative).

5 Q. -- who sent that over to TBW; is
6 **that correct?**

7 A. No. Tracy Hobbs makes the copy,
8 sends the original to Taylor Bean. Taylor
9 Bean makes a copy, sends it to HUD insurance.
10 HUD insurance has a copy of the original file
11 that we sent to Taylor Bean. And that's what
12 you seen, and that was what was there, was
13 Taylor Bean's copy of what they had in their
14 documents or what they copied of what they had
15 in their documents.

16 Q. **And what significance do you attach**
17 **to that exactly?**

18 A. As far as what?

19 Q. **As far as anything.**

20 A. Which part of the significance are
21 you talking about with my statement?

22 Q. **Everything you just said.**

23 A. Well, the copy of that, I read some
24 of your summary judgments saying I'm missing
25 documents. This shouldn't have closed without

1 that. That thing had been copied, and I don't
2 know how many times it got copied and sent to
3 HUD. HUD copied it and sent it to you. I
4 don't know who missed copies in between the
5 two steps.

6 So missing documents are irrelevant
7 because they may be in the original file. And
8 you need the original file to make sure the
9 missing documents are not in it.

10 Q. **So you're talking about the ones**
11 **that are missing something as opposed --**

12 A. Yeah, missing something or whatever,
13 correct.

14 Q. **-- as opposed to your signature?**

15 A. Well, they said other loans closed
16 without this documentation. I don't know if
17 it closed without that documentation. It
18 might be in the original file.

19 Q. **But you're not contending that TBW**
20 **added your signature later, are you?**

21 A. They couldn't add my signature.

22 Q. **They couldn't have?**

23 A. Oh, they could have, yes. You know,
24 actually, yes, TBW could have added my
25 signature.

1 **Q. Why would they do that?**

2 A. I guess it's a requirement for HUD.

3 I don't know if it got missed in my office.

4 **Q. Anything else that you think could**
5 **present a problem by this chain of custody**
6 **with the government?**

7 A. Nothing.

8 I can tell you one thing, you did --
9 you have thrown up all these ideas of why
10 these are false claims on these files in your
11 past summary judgment. But I haven't seen any
12 write-up from the government saying what they
13 say is false claims for.

14 And when we asked for them, they
15 refused to give us what they think the reason
16 for their false claims are. And I think all
17 of your false claims and judgments are just
18 based on your clients' personal beliefs that
19 maybe this was the cause of a false claim.
20 But I haven't seen proof that that was the
21 cause of a false claim yet.

22 **Q. That what was the proof?**

23 A. I haven't seen the government's
24 response on anything saying why it was a false
25 claim or why it was denied for claim.

1 **Q. Are you aware of the fact that**
2 **creating a false document in order to get a**
3 **claim paid is a violation of the False Claims**
4 **Act?**

5 A. I don't -- well, I don't know, no.

6 **Q. You don't know. Okay.**

7 MS. BRACKER: I think I'm done. Do
8 you have any follow-up?

9 MR. PARKER: No.

10 (Deposition concluded at 4:12 p.m.)

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1 USA vs. Taylor Bean

2

3 The preceding deposition was taken

4 in the matter, on the date and at the time and

5 place set out on the title page hereof.

6

7 It was requested that the deposition

8 be taken by the reporter and that same be

9 reduced to typewritten form.

10

11 It was agreed by and between counsel

12 and the parties that the deponent will read

13 and sign the transcript of said deposition.

14

15 Said jurat is to be returned within

16 30 days following receipt of the transcript to

17 the following address:

18

19 Elizabeth Gallo Court Reporting, LLC

20 2900 Chamblee Tucker Road

21 Building 13, First Floor

22 Atlanta, Georgia 30341

1 STATE OF GEORGIA:

2 COUNTY OF COBB:

3

4 I hereby certify that the foregoing

5 transcript was reported, as stated in the

6 caption, and the questions and answers thereto

7 were reduced to typewriting under my

8 direction; that the foregoing pages represent

9 a true, complete and correct transcript of the

10 evidence given upon said hearing, and I

11 further certify that I am not of kin or

12 counsel to the parties in the case; am not in

13 the employ of counsel for any of said parties;

14 nor am I in any way interested in the result

15 of said case.

16

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22 Lisa Fischer, CCR-B-1277

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Disclosure Pursuant to Article 8(B)
of the Rules and Regulations of the Board of
Court Reporting of the Judicial Council of
Georgia, I make the following disclosure:

I am a Georgia Certified Court Reporter, here as a representative of Elizabeth Gallo Court Reporting, LLC, to report the foregoing matter. Elizabeth Gallo Court Reporting, LLC, is not taking this deposition under any contract that is prohibited by O.C.G.A. 15-14-37 (a) and (b).

Elizabeth Gallo Court Reporting, LLC, will be charging its usual and customary rates for this transcript.

1 CERTIFICATE

2 STATE OF
3 COUNTY/CITY OF4 Before me this day personally
5 appeared James Gregory Hicks, who, being duly
6 sworn, states that the foregoing transcript of
7 his/her deposition, taken in the matter, on
the date and at the time and place set out on
the title page hereof, constitutes a true and
accurate transcript of said deposition.8
9 James Gregory Hicks10 SUBSCRIBED and SWORN to before me
11 this _____ day of 2013
12 in the jurisdiction aforesaid.13
14
15 My Commission Expires Notary Public16
17
18 [] No changes made to the Errata Sheet;
19 therefore, I am returning only this signed,
20 notarized certificate.21
22 [] I am returning this signed,
23 notarized certificate and Errata Sheet with
24 changes noted.

1 DEPOSITION ERRATA SHEET

2 Deponent: James Gregory Hicks

3 Deposition Date: February 6, 2013

4 To Reporter:

5 I have read the entire transcript of
6 my deposition taken in the captioned matter or
7 the same has been read to me. I request that
8 the following changes be entered upon the
9 record for the reasons indicated. I have
10 signed my name to the Errata Sheet and
11 appropriate certificate and authorize you to
12 attach both to the original transcript.13
14 Page No. Line No.

15 Change to:

16 Reason for Change:

18 Page No. Line No.

19 Change to:

20 Reason for Change:

22 Page No. Line No.

23 Change to:

24 Reason for Change:

Deposition of James Gregory Hicks

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Signature:

Date:

James Gregory Hicks